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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 SISOMPHONE PHANVONGKHAM and
FELICIA NAVARRO,

10 Plaintiffs,

11 vs.

12 MELISSA MOULTRIE,

13 Defendant.
14

) Case No. 1:16-cv-01032-LJO-BAM

) Appeal No. 17-16458

) ORDER REVOKING IN FORMA
PAUPERIS STATUS

) (ECF No. 18)

15 By notice entered July 21, 2017, the United States Court of Appeals for the Ninth Circuit
16 referred this matter to the District Court for the limited purpose of determining whether in forma
17 pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad
18 faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092
19 (9th Cir. 2002) (revocation of in forma pauperis status is appropriate where the District Court
20 finds the appeal to be frivolous).

21 Permitting litigants to proceed in forma pauperis is a privilege, not a right. *Franklin v.*
22 *Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984); *Williams v. Field*, 394 F.2d 329, 332 (9th Cir.,
23 cert. denied, 393 U.S. 891 (1968); *Williams v. Marshall*, 795 F.Supp. 978, 978-79 (N.D. Cal.
24 1992). A federal court may dismiss a claim filed in forma pauperis prior to service if it is
25 satisfied that the action is frivolous or malicious. 28 U.S.C. § 1915(e)(2); *see Sully v. Lungren*,
26 842 F. Supp. 1230, 1231 (N.D. Cal. 1994). If a plaintiff with in forma pauperis status brings a
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1 case without arguable substance in law and fact, the court may declare the case frivolous.
2 *Franklin*, 745 F.2d at 1227.

3 Here, Plaintiff is appealing the Court's dismissal of this action for lack of subject matter
4 jurisdiction. The Court also recommended dismissal because Plaintiffs' Complaint, challenging
5 an eviction dispute litigated in the Fresno County Superior Court, was barred by the Rooker-
6 Feldman doctrine. *See Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 858-59 (9th Cir. 2008)
7 (federal district courts have no authority to directly or indirectly review state court decisions)
8 (citing the "Rooker-Feldman" doctrine). Although the Court granted Plaintiffs leave to amend,
9 Plaintiffs were unable to cure these deficiencies. There is no basis for federal jurisdiction in this
10 case, and an appeal of that decision would be frivolous. IFP status should not continue on appeal.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. This matter is declared frivolous;
- 13 2. Pursuant to 28 U.S.C. § 1915(a)(3), Plaintiffs are not entitled to proceed *in forma*
14 *pauperis* in Appeal No. 17-16458, filed July 14, 2017;
- 15 3. Pursuant to Federal Rule of Appellate Procedure 24(a)(4), this Order serves as notice
16 to the parties and the United States Court of Appeals for the Ninth Circuit of the
17 finding that Plaintiffs are not entitled to proceed *in forma pauperis* for this appeal;
18 and
- 19 4. The Clerk of the Court is directed to serve a copy of this Order on Plaintiffs and the
20 United States Court of Appeals for the Ninth Circuit.

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22 IT IS SO ORDERED.

23 Dated: July 27, 2017

24 /s/ Lawrence J. O'Neill
25 UNITED STATES CHIEF DISTRICT JUDGE
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