

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

PAULA SHEPARD,

NO. CIV. 2:10-1863 WBS JFM

Plaintiff,

ORDER RE: MOTION TO PROCEED IN
FORMA PAUPERIS

v.

JANE MILER, an individual,
CAREER PRESS, INC., NEW PAGE
BOOKS, and DOES 1-100.

Defendants.

_____ /

-----oo0oo-----

Presently before the court is plaintiff's motion to proceed in forma pauperis. (Docket No. 93.) Final judgment was entered in this case on January 12, 2012, and plaintiff has filed an appeal with the Ninth Circuit Court of Appeals in which she has filed an identical motion to proceed in forma pauperis.

The filing of a notice of appeal transfers jurisdiction from the district court to the court of appeals with respect to all matters involved in the appeal. Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58-59 (1982). This transfer of

1 jurisdiction is designed to avoid the confusion and inefficiency
2 of two courts considering the same issues simultaneously. See
3 Masalosalo by Masalosalo v. Stonewall Ins. Co., 718 F.2d 955, 956
4 (9th Cir. 1983). This court has been asked on numerous
5 occasions, however, to determine whether forma pauperis status
6 should continue for plaintiffs on appeal. See, e.g., Gilmore v.
7 California, No. 11-743, slip op. at 1 (E.D. Cal. Jan. 18, 2012);
8 Wilkins v. Freitas, No. 09-323, slip. op. at 1 (E.D. Cal. Dec. 6,
9 2011). In the interest of judicial efficiency, the court will
10 make such determination at the present time, when the case is
11 fresh in the court's mind.

12 Denial of forma pauperis status at the appellate level
13 is appropriate where the district court finds the appeal to be
14 frivolous. Hooker v. Am. Airlines, 302 F.3d 1091, 1092 (9th Cir.
15 2002). Plaintiff's appeal concerns the court's order granting
16 defendants' special motion to strike pursuant to California's
17 anti-SLAPP statute and is not patently frivolous. The court
18 having considered plaintiff's Application to Proceed Without
19 Prepayment of Fees and Affidavit finds good cause supporting
20 plaintiff's application and hereby GRANTS plaintiff's request to
21 proceed in forma pauperis.

22 IT IS SO ORDERED.

23 DATED: February 23, 2012

24 

25 WILLIAM B. SHUBB
26 UNITED STATES DISTRICT JUDGE
27
28