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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DIANE CAHILL,

No. 2:11-cv-01688-MCE-JFM

Plaintiff,

vs.

ORDER

BANK OF AMERICA, NA, et al.,

Defendants.

_____ /

Plaintiff proceeds pro se with this lawsuit challenging foreclosure of her real property. On August 22, 2012, this court dismissed Plaintiff's federal claims without leave to amend for plaintiff's failure to state a claim and dismissed Plaintiff's state law claims for lack of subject-matter jurisdiction. Plaintiff has filed a notice of appeal, and the Ninth Circuit has asked the Court to determine whether plaintiff's in forma pauperis status should continue for the appeal or should be revoked because the appeal is frivolous or taken in bad faith.

1 ECF No. 56. For the following reasons, the Court finds the
2 appeal frivolous and, accordingly, revokes plaintiff's in forma
3 pauperis status.

4 Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be
5 taken in forma pauperis if the trial court certifies in writing
6 that it is not taken in good faith." The good faith standard is
7 an objective one. See Coppedge v. United States, 369 U.S. 438,
8 445 (1962).

9 A plaintiff satisfies the "good faith" requirement if he or
10 she seeks review of any issue that is "not frivolous."

11 Gardner v. Pogue, 558 F.2d 548, 551 (9th Cir. 1977) (quoting
12 Coppedge, 369 U.S. at 445). For purposes of § 1915, an appeal is
13 frivolous if it lacks any arguable basis in law or fact.

14 Neitzke v. Williams, 490 U.S. 319, 325, 327 (1989). For those
15 reasons stated in the magistrate judge's June 29, 2012, Findings
16 and Recommendations, which were adopted by this Court on
17 August 22, 2012, this Court now holds that the instant Complaint
18 is frivolous. The Court thus certifies that Plaintiff's appeal
19 is not taken in good faith.

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1 Accordingly, it is hereby ORDERED that the Clerk of Court is
2 directed to notify the Ninth Circuit Court of Appeals that the
3 court certifies, pursuant to Rule 24(a)(3)(A) of the Federal
4 Rules of Appellate Procedure, that plaintiff's appeal is not
5 taken in good faith, and she must therefore seek further
6 authorization from the Court of Appeals pursuant to Rule 24(a)(5)
7 to obtain leave to proceed in forma pauperis on appeal.

8 IT IS SO ORDERED.

9 Dated: September 17, 2012

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12 MORRISON C. ENGLAND, JR.

13 UNITED STATES DISTRICT JUDGE
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