

1
2
3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6 EUREKA DIVISION
7

8 BRIAN CHAVEZ, et al.,

9 Plaintiffs,

10 v.

11 COUNTY OF SANTA CLARA,

12 Defendant.

Case No. 15-cv-05277-RMI

**ORDER DENYING MOTION FOR
LEAVE TO APPEAL IN FORMA
PAUPERIS**

Re: Dkt. No. 121

13
14 Now pending before the court is an application filed by Mr. Howard Hershops seeking
15 leave to appeal *in forma pauperis* (dkt. 121). Mr. Hershops recently moved to intervene, *pro se*, in
16 this settled class action case (dkt. 117). He also filed a Motion for Civil Contempt (dkt. 116)
17 against Defendant County of Santa Clara. The court denied the motions because he is currently
18 represented by class counsel in this case, and also due to the fact that the contentions underling his
19 Motion to Intervene (dkt. 117) are fully embodied in a separate lawsuit that he has filed, and that is
20 currently pending, before another judge of this court. *See Hershops v. Smith et al.*, Case No. 3:20-
21 cv-07208-JD, Amend. Compl. (dkt. 14) at 3-4, 13, 14, 31, 33. For the reasons stated in the Order
22 denying Mr. Hershops leave to intervene in this case (dkt. 119), the court now finds that this appeal
23 is frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken
24 *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.”).

25 Accordingly, Mr. Hershops’ Motion for Leave to Appeal *in forma pauperis* is **DENIED**. If he so
26 chooses, Mr. Hershops may seek pauper status directly from the Ninth Circuit Court of Appeals.

27 The Clerk of Court shall forward a copy of this order to the Court of Appeals.

28 //

United States District Court
Northern District of California

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

IT IS SO ORDERED.

Dated: September 9, 2021



ROBERT M. ILLMAN
United States Magistrate Judge