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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HAMMER,

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

Case No.: 17-cv-02137-BTM-NLS

ORDER

ECF NOS. 31, 32

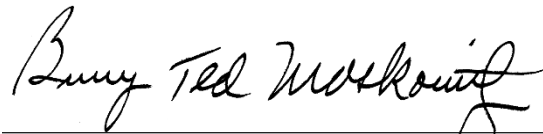
On December 18, 2017, the Court granted Plaintiff’s Motion to Proceed In Forma Pauperis. (ECF No. 20). On September 13, 2018, the Court granted Defendant’s Motion to Dismiss and denied Plaintiff’s Motion to Remand, finding that Plaintiff’s claims were barred by issue preclusion. (ECF No. 26).

On September 19, 2018, the Ninth Circuit referred the matter back to this Court for “the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith.” (ECF No. 31). Plaintiff filed a supplemental brief to oppose the revocation of his in forma pauperis status. (ECF No. 32).

1 A court may excuse a party from prepayment of fees if the party submits an
2 affidavit stating their assets and that such assets are insufficient to pay court fees.
3 28 U.S.C. § 1915(a)(1). However, “[a]n appeal may not be taken in forma pauperis
4 if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C.
5 1915(a)(3). When an appeal raises only frivolous arguments, it is not taken in good
6 faith. See *id.*; *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

7 For the reasons set forth in the Court’s order granting Defendant’s Motion to
8 Dismiss and denying Plaintiff’s Motion to Remand, the Court finds Plaintiff’s appeal
9 to be frivolous. (ECF No. 26). Plaintiff’s supplemental brief introduces no cogent
10 argument persuading the Court otherwise. (ECF No. 32). Therefore, pursuant to
11 28 U.S.C. § 1915(a)(3), the Court certifies in writing that Plaintiff’s appeal is not
12 taken in good faith.

13
14 Dated: October 9, 2018



Barry Ted Moskowitz, Chief Judge
United States District Court