

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL E. FRYZEL,)
)
 Plaintiff/Counterdefendant,)
)
 v.) No. 10 C 1622
)
 SIDNEY R. MILLER,)
)
 Defendant/Counterplaintiff.)

MEMORANDUM ORDER

This Court's two-page March 15, 2010 memorandum order remanded to the Circuit Court of Cook County, because of the obvious absence of federal subject matter jurisdiction, the attempted removal by Sidney Miller ("Miller") of the state court lawsuit brought against Miller by his ex-lawyer Michael Fryzel to collect unpaid attorney's fees of \$38,074.43. Now Miller seeks permission to appeal in forma pauperis from that remand order. Because that effort is just as groundless as Miller's original effort to proceed in this federal court, his motion must be denied.

In forma pauperis status on appeal is not simply a function of a litigant's financial inability to pay the filing fee. It is also necessary for the putative appellant to advance a nonfrivolous claim. And in this instance Congress has expressly made this Court's order of remand nonappealable by its enactment of 28 U.S.C. §1447(d), so that the Court of Appeals is without

jurisdiction to review this Court's ruling.¹ As already stated, leave to proceed in forma pauperis is therefore denied.



Milton I. Shadur
Senior United States District Judge

Date: May 25, 2010

¹ Moreover, as indicated earlier, Miller's substantive claim is frivolous as well.