

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                                |   |                               |
|--------------------------------|---|-------------------------------|
| _____                          | ) |                               |
| JOHN O. EZE,                   | ) |                               |
|                                | ) |                               |
| <b>Plaintiff/Appellant,</b>    | ) |                               |
|                                | ) |                               |
| v.                             | ) | Civil Action No. 16-11463-DJC |
|                                | ) |                               |
| ENDEAVOR CAPITAL FUNDING, LLC, | ) |                               |
|                                | ) |                               |
| <b>Defendant/Appellee.</b>     | ) |                               |
| _____                          | ) |                               |

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

CASPER, J.

February 10, 2017

For the reasons set forth below, the Court denies the motion for leave to appeal *in forma pauperis* and certifies, pursuant to 28 U.S.C. § 1915(a), that the appeal is not taken in good faith.

**BACKGROUND**

By Order, dated December 27, 2016, the Court denied and dismissed this bankruptcy appeal. D. 10. On January 30, 2017, Plaintiff/Appellant filed a notice of appeal accompanied by a motion for leave to appeal *in forma pauperis*. D.13, D. 14.

**STANDARD OF REVIEW**

Applications to appeal *in forma pauperis* are governed by 28 U.S.C. § 1915 and Fed. R. App. P. 24. In pertinent part, Rule 24(a) provides:

- (1) . . . [A] party to a district-court action who desires to appeal *in forma pauperis* must file a motion in the district court. The party must attach an affidavit that:
  - (A) shows ... the party's inability to pay or to give security for fees and costs;
  - (B) claims an entitlement to redress; and
  - (C) states the issues that the party intends to present on appeal.

Id.

Similarly, Section 1915(a)(1) provides “any court of the United States may authorize the commencement, prosecution or defense of any . . . appeal . . . without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor.” 28 U.S.C. § 1915(a) (1). Section 1915(a)(1) requires that the affidavit also state the nature of the action, defense or appeal and the affiant's belief that the person is entitled to redress. Id. Additionally, Section 1915 further provides that, “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3).

### **DISCUSSION**

The motion for leave to appeal *in forma pauperis* is denied because it fails to list the issues on appeal and fails to provide what “substantial question” would be presented or any reason to conclude that there is a legitimate ground for appeal.

Here, the same considerations that led the Court to dismiss the bankruptcy appeal now compel the conclusion that an appeal would not be taken in good faith. In dismissing the case, I made findings that the bankruptcy appeal was not properly before this Court, and, to the extent it may have been properly filed, the bankruptcy court did not abuse its discretion. Thus, the Court hereby certifies, pursuant to 28 U.S.C. § 1915(a), that the appeal is not taken in good faith and denies plaintiff's motion for leave to appeal *in forma pauperis*. Further requests to proceed on appeal *in forma pauperis* should be directed by motion to the United States Court of Appeals for the First Circuit in accordance with Fed. R. App. P. 24(a)(5) of the Federal Rules of Appellate Procedure.

### **ORDER**

Based on the foregoing, it is hereby Ordered that:

- 1) The motion (Docket No. 14) for leave to appeal *in forma pauperis* is DENIED;
- 2) The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a), that the appeal is not taken in good faith; and
- 3) The Clerk shall transmit this Order as a supplemental record to the United States Court of Appeals for the First Circuit.

**SO ORDERED.**

/s/ Denise J. Casper  
Denise J. Casper  
United States District Judge