

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRYAN BEHRENS,)
)
Plaintiff,)
)
v.)
)
CHASE HOME FINANCE,)
)
Defendant.)

8:13CV17

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff’s Notice of Appeal. (Filing No. [19](#).) Also pending is Plaintiff’s Motion for Time and Request for Correction. (Filing No. [18](#).)

Plaintiff filed his Notice of Appeal on April 15, 2013. (Filing No. [19](#).) In his Notice, Plaintiff seeks to appeal the court’s March 25, 2013, Memorandum and Order that granted him leave to proceed in forma pauperis. (*Id.*; see also Filing No. [17](#).) However, that Memorandum and Order is not a final order, and judgment has not been entered in this matter. As set forth in [28 U.S.C. § 1292\(b\)](#), an interlocutory appeal is warranted if the decision sought to be appealed involves a controlling question of law as to which substantial grounds for difference of opinion exist, so that an immediate appeal could materially advance the ultimate termination of this litigation. [28 U.S.C. §1292\(b\)](#).

Here, no such “controlling question of law” is implicated. The court’s March 25, 2013, Memorandum and Order does not involve controlling questions of law as to which there is substantial ground for difference of opinion, and an immediate appeal would not materially advance the ultimate termination of this litigation. Therefore, there is no reason why the present appeal should proceed prior to entry of a final judgment in this matter. For these reasons, the court will not process Plaintiff’s

Notice of Appeal. *See, e.g., Albert v. Quest Commc'n Int'l, Inc., 226 Fed. App'x. 630, 631 (8th Cir. 2007)* (concluding the Eighth Circuit did not have interlocutory appellate jurisdiction over an order granting in forma pauperis status).

Also pending is Plaintiff's Motion for Time and Request for Correction. (Filing No. [18](#).) In his Motion, Plaintiff states that he needs additional time to pay his initial partial filing fee. (*Id.*) He states that he will be able to pay after May 8, 2013. (*Id.*) The court will grant Plaintiff's request for additional time.¹ Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff's Notice of Appeal, construed as a Motion for Interlocutory Appeal (filing no. [19](#)), is denied.
2. The Clerk of the court shall not process the appeal to the Eighth Circuit.
3. The Clerk of the court is directed to forward a copy of this Memorandum and Order to the parties and to the Eighth Circuit Court of Appeals.
4. Plaintiff's Motion for Time and Request for Correction (filing no. [18](#)) is granted in accordance with this Memorandum and Order. Plaintiff shall have until May 27, 2013, to pay the initial partial filing fee in this matter.

¹Plaintiff also states that the court has assessed an incorrect filing fee in a separate case pending before the court. (Filing No. [18](#).) Plaintiff asks the court to correct the initial partial filing fee assessment in that separate case. (*Id.*) Plaintiff's request is moot because the court has already addressed the initial partial filing fee issue in that case. (*See* Case No. 8:13CV72, Filing No. [13](#).)

5. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: **May 27, 2013**: initial partial filing fee payment due.

DATED this 18th day of April, 2013.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

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