

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**NEBRASKA DATA CENTERS, LLC, and
AMERICAN NEBRASKA LIMITED
PARTNERSHIP,**

Plaintiffs,

vs.

**LEO KHAYET, AND TIMBER
VENTURES, LLC,**

Defendants.

8:17CV369

ORDER

This matter is before the Court on the Clerk’s Memorandum, ECF No. 327, regarding Defendant Leo Khayet’s Notice of Appeal, ECF No. 325, and his ability to proceed on appeal in forma pauperis. In its response to the Memorandum, the Court indicated that Khayet was not entitled to proceed on appeal in forma pauperis without further authorization under Rule 24(a)(3)¹ of the Federal Rules of Appellate Procedure. ECF No. 328. Rule 24(a)(1) states that “[e]xcept as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court.” Khayet has not filed a motion requesting permission to appeal in forma

¹ Rule 24(a)(3) provides:

Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

pauperis, and the Court certifies that his appeal is not taken in good faith. See Fed. R. App. P. 24(a)(1) & (a)(3)(A). Accordingly, he must seek permission to proceed on appeal in forma pauperis from the Court of Appeals.

IT IS ORDERED: The Clerk is directed to process Defendant Leo Khayet's appeal, ECF No. 325, and Khayet must seek permission to proceed on appeal in forma pauperis from the U.S. Court of Appeals for the Eighth Circuit.

Dated this 22nd day of July 2019.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge