

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Milton O. Crawford, )
4 )
5 Plaintiff, )
6 vs. )
7 )
8 Smith's Food and Drug Centers, Inc., et al., )
9 Defendants. )

Case No.: 2:12-cv-0122-GMN-GWF

ORDER

9 By notice entered January 12, 2017, the U.S. Court of Appeals for the Ninth Circuit
10 referred this matter to the District Court for the limited purpose of determining whether in
11 forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken
12 in bad faith. See 28 U.S.C. § 1915(a)(3); see also Hooker v. American Airlines, 302 F.3d 1091,
13 1092 (9th Cir. 2002) (revocation of in forma pauperis status appropriate where the District
14 Court finds the appeal to be frivolous).

15 Here, Plaintiff appeals the Court's Order denying his Motion for Leave to File a Motion
16 for New Trial pursuant to Federal Rule of Civil Procedure 59 ("FRCP 59"). As stated in the
17 Court's previous Order, (ECF No. 275), Plaintiff filed his motion over two years after the entry
18 of judgment, and therefore a motion brought under FRCP 59 would be untimely. Accordingly,
19 the record clearly shows that Plaintiff's appeal lacks any legal or factual basis.

20 IT IS THEREFORE ORDERED that the Court certifies that Plaintiff's appeal is
21 frivolous pursuant to 28 U.S.C. § 1915(a)(3). Plaintiff's in forma pauperis status is revoked for
22 purposes of this appeal.

23 DATED this 31 day of January, 2017.

24
25 Gloria M. Navarro, Chief Judge
United States District Court