

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 LEO CONO,

5 Plaintiff,

6 v.

7 AVALON BAY COMMUNITIES, INC., et
8 al.,

9 Defendants.

Case No. 2:18-cv-0482-APG-VCF

**DISTRICT COURT'S RESPONSE TO
NINTH CIRCUIT'S REFERRAL
NOTICE**

(ECF No. 21)

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11 The Ninth Circuit Court of Appeals has referred to me the question whether Mr. Cono's
12 "in forma pauperis status should continue for this appeal or whether the appeal is frivolous or
13 taken in bad faith." ECF No. 21. I do not find this appeal to be taken in bad faith. 18 U.S.C.
14 §1915(a)(3). However, the appeal appears to me to be frivolous. Whether that is a sufficient
15 basis to revoke in forma pauperis status under the language of 18 U.S.C. §1915(a)(3), I leave to
16 the Ninth Circuit to decide. *Cf. Hooker v. American Airlines*, 302 F.3d 1091 (9th Cir. 2002).

17 This response is directed to the Ninth Circuit pursuant to Federal Rule of Appellate
18 Procedure 24(a)(3)(A). The clerk of court shall serve this response upon the parties and the
19 Ninth Circuit.

20 Dated: October 17, 2018.

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22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE