

# Appendix.

## **Exhibit 1.**

The Order of the District Court of Northern California dated November 19, 2018 that denied my request to appoint an Attorney to represent my case.

10 TATYANA EVGENIEVNA DREVALEVA,

11 Plaintiff,

12 v. No. C 18-03748 WHA

13 U.S. DEPARTMENT OF VETERANS  
14 AFFAIRS, et al.,

15 Defendants. **ORDER RE PLAINTIFF'S  
INQUIRIES**

16 In this *pro se* employment discrimination action, plaintiff has included the following  
17 inquiries in her opposition to defendants' motion to dismiss. *First*, plaintiff has inquired as to  
18 whether or not it would be proper to transfer her action to "the District Court of New Mexico."  
19 *Second*, plaintiff asks whether she should have "free of charge" counsel appointed on her behalf  
20 (Dkt. No. 40 at 18). This order addresses each inquiry in turn.

21 *First*, plaintiff asks for guidance as to whether this action should be maintained in  
22 this Court, or whether it should be transferred to the district court in New Mexico. Plaintiff is  
23 advised that this inquiry is better suited for the initial case management conference on  
24 November 29, however, absent a stipulation, this issue needs to be litigated on a motion basis.

25 *Second*, plaintiff requests appointment of counsel pursuant to 42 U.S.C.  
26 Section 2000e-5(f)(1)(B) (Dkt. No. 40 at 14). Under *Mallard v. United States District Court*,  
27 490 U.S. 296, 304-05 (1989), there is no constitutional right to appointment of counsel in civil  
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## United States District Court

For the Northern District of California

1 cases. To determine whether plaintiff is entitled to appointment of counsel under Title VII,  
2 the Court must assess: (1) plaintiff's financial resources; (2) plaintiff's efforts to secure  
3 counsel; and (3) whether plaintiff's claims have merit. *Bradshawe v. Zoological Soc. of*  
4 *San Diego*, 662 F.2d 1301, 1318 (9th Cir. 1981). Plaintiff has not produced evidence of her  
5 efforts to secure counsel.

6 Plaintiff is also advised that helpful information is available online at:  
7 <http://cand.uscourts.gov/proselitigants> and also in person at the legal help center.  
8 An appointment with the legal help center may be made by calling 415-782-9000,  
9 extension 8657. At this time, plaintiff's request for appointment of counsel must be **DENIED**.

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**IT IS SO ORDERED.**

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13 Dated: November 19, 2018.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

## **Exhibit 2.**

The Order of the District Court of Northern California dated November 26, 2018 that named my Appeal of the November 19, 2018 Order frivolous and withdrew my *in forma pauperis* status on this Appeal.

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## 6 IN THE UNITED STATES DISTRICT COURT

## 7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 TATYANA EVGENIEVNA DREVALEVA,

No. C 18-03748 WHA

11 Plaintiff,

12 v.

**ORDER REVOKING *IN FORMA PAUPERIS* STATUS  
ON APPEAL**13 U.S. DEPARTMENT OF VETERANS  
14 AFFAIRS, *et al.*,

15 Defendants.

16  
17 An order dated November 19 denied *pro se* plaintiff's request for appointment of  
18 counsel under *Bradshawe v. Zoological Soc'y of San Diego*, 662 F.2d 1301, 1318 (9th Cir.  
19 1981), for failure to produce evidence of her efforts to secure counsel (Dkt. No. 57). Plaintiff  
20 subsequently appealed that denial (Dkt. No. 58).21 Now, our court of appeals has referred plaintiff's appeal to the district court to determine  
22 whether plaintiff's *in forma pauperis* status should continue on appeal. In *Hooker v. American*  
23 *Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002), our court of appeals held that revocation of *in*  
24 *forma pauperis* status is appropriate where the district court finds the appeal to be frivolous.25 Here, instead of moving for leave for reconsideration or making any kind of attempt to  
26 produce evidence before the Court of her efforts to secure counsel, plaintiff immediately  
27 appealed the denial of appointment of counsel. Without such evidence of plaintiff's efforts to  
28 secure counsel, plaintiff is not entitled to appointment of counsel. And, although plaintiff is  
proceeding *pro se*, she is readily capable of supplementing to the Court any noted deficiencies

1 in her requests (*see* Dkt. No. 53). Accordingly, this order finds plaintiff's present appeal to be  
2 frivolous and hereby **REVOKE**s plaintiff's *in forma pauperis* status. This revocation is without  
3 prejudice to any subsequent appeals made by plaintiff. The Clerk shall please notify the United  
4 States Court of Appeals for the Ninth Circuit of this order.

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6 **IT IS SO ORDERED.**

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8 Dated: November 26, 2018.

  
9 WILLIAM ALSUP  
10 UNITED STATES DISTRICT JUDGE

## **Exhibit 3.**

The Order of the District Court of Northern California dated December 04, 2018 that denied my Motion for Leave to File a Motion for Reconsideration of the Court's Order dated November 26, 2018.

10 TATYANA EVGENIEVNA DREVALEVA,

11 Plaintiff,

12 v. **ORDER DENYING  
RECONSIDERATION OF  
REVOCATION OF *IN  
FORMA PAUPERIS* STATUS  
ON APPEAL**13 U.S. DEPARTMENT OF VETERANS  
14 AFFAIRS, *et al.*,

15 Defendants.

16 In this *pro se* action against the Department of Veterans Affairs for terminating her  
17 employment, plaintiff moves for reconsideration of the order dated November 26 revoking her  
18 *in forma pauperis* status on appeal. Below are the key events in chronological order.19 In her opposition to defendants' motion to dismiss, plaintiff requested appointment of  
20 counsel pursuant to 42 U.S.C. § 2000e-5(f)(1)(B) (Dkt. No. 40 at 14). An order dated  
21 November 19 advised plaintiff that *Mallard v. United States District Court*, 490 U.S. 296,  
22 304–05 (1989), held that there is no constitutional right to counsel in civil cases. The order  
23 further advised plaintiff that she had the option of: (1) showing she met the four factor test  
24 under *Bradshaw v. Zoological Society of San Diego*, 662 F.2d 1301, 1318 (9th Cir. 1981); (2)  
25 contacting the legal help center in person or online at: <http://cand.uscourts.gov/proselitigants>;  
26 or (3) making an appointment with the legal help center by calling 415-782-9000, extension  
27 8657.

## United States District Court

For the Northern District of California

1 Instead, plaintiff immediately appealed the November 19 order denying her request for  
2 appointment of counsel (Dkt. No. 58). Our court of appeals then referred the matter to this  
3 Court to determine whether plaintiff's *in forma pauperis* status should continue on appeal.  
4 An order dated November 26 found the appeal to be frivolous and revoked plaintiff's *in forma*  
5 *pauperis* status as to the appeal (without prejudice as to subsequent appeals).  
6

7 Plaintiff now moves for reconsideration of the November 26 order revoking her *in*  
8 *forma pauperis* status on appeal. In her motion, plaintiff states that she made one attempt to  
9 secure counsel (Dkt. No. 65 at 2). That new fact does not change the conclusion that plaintiff  
10 has not met the standard under *Bradshaw* (at least on the current record). Accordingly,  
11 plaintiff's motion is **DENIED**.  
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14 **IT IS SO ORDERED.**

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16 Dated: December 4, 2018.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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## **Exhibit 4.**

The Order to Show Cause of the Court of Appeals for the 9th Circuit dated December 04, 2018. I responded to that Order on December 18, 2018, and I've never heard back from the 9th Circuit.

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**18-17241 Tatyana Drevaleva v. U.S. Dept. of Veterans Affairs, et al "Clerk Order Filed"**

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ca9\_ecfnoticing@ca9.uscourts.gov <ca9\_ecfnoticing@ca9.uscourts.gov>

Tue, Dec 4, 2018 at 12:25 PM

To: tdrevaleva@gmail.com

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United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 12/04/2018 at 12:25:22 PM PST and filed on 12/04/2018

Case Name: Tatyana Drevaleva v. U.S. Dept. of Veterans Affairs, et al

Case Number: 18-17241

Document(s): <https://ecf.ca9.uscourts.gov/docs1/009030542260?uid=85855df59e2d9be9>

Docket Text:

Filed clerk order (Deputy Clerk: JW): A review of the district court's docket reflects that the district court has certified that this appeal is not taken in good faith and has revoked appellant's in forma pauperis status. See 28 U.S.C. § 1915(a). This court may dismiss a case at any time, if the court determines the case is frivolous. See 28 U.S.C. § 1915(e)(2).

Within 35 days after the date of this order, appellant must:

- (1) file a motion to dismiss this appeal, see Fed. R. App. P. 42(b), or
- (2) file a statement explaining why the appeal is not frivolous and should go forward.

If appellant does not respond to this order, the Clerk will dismiss this appeal for failure to prosecute, without further notice. See 9th Cir. R. 42-1. If appellant files a motion to dismiss the appeal, the Clerk will dismiss this appeal, pursuant to Federal Rule of Appellate Procedure 42(b). If appellant submits any response to this order other than a motion to dismiss the appeal, the court may dismiss this appeal as frivolous, without further notice.

If appellant files a statement that the appeal should go forward, appellees may file a response within 10 days after service of appellant's statement.

The briefing schedule for this appeal is stayed.

The Clerk shall serve on appellant: (1) a form motion to voluntarily dismiss the appeal, and (2) a form statement that the appeal should go forward. Appellant may use the enclosed forms for any motion to dismiss the appeal or statement that the appeal should go forward.

[11108991] (CKP)

Notice will be electronically mailed to:

Claire Truxaw Cormier, Assistant U.S. Attorney

Tatyana Evgenievna Drevaleva

Kimberly Robinson, Assistant U.S. Attorney

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: 18-17241.pdf

Electronic Document Stamp:

[STAMP acecfStamp\_ID=1106763461 [Date=12/04/2018] [FileNumber=11108991-0] [7d1467c50a25e1808d863207e9a8d27a83e64fbadd05ebafd157fc7d0a7f373bf71c7d892cd070c35dd3b311ac d04a975793be30552152652e11a9bb6febc35]]

Document Description: Additional Document

Original Filename: Frivolous OSC Forms.pdf

Electronic Document Stamp:

[STAMP acecfStamp\_ID=1106763461 [Date=12/04/2018] [FileNumber=11108991-1] [097ad80a8297e38f2e40af2507a48cb508028bc7a701a8f8762e4f0ac7aa0469f6c5f761254ced112e0b80950fb2c9b09d4a019d916d8abbc12d0ce9e8d477c]]

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**18-17241 Tatyana Drevaleva v. U.S. Dept. of Veterans Affairs, et al "Response to Order to Show Cause"**

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ca9\_ecfnoticing@ca9.uscourts.gov <ca9\_ecfnoticing@ca9.uscourts.gov>  
To: tdrevaleva@gmail.com

Tue, Dec 18, 2018 at 5:30  
AM

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United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 12/18/2018 at 5:30:57 AM PST and filed on 12/18/2018

Case Name: Tatyana Drevaleva v. U.S. Dept. of Veterans Affairs, et al

Case Number: 18-17241

Document(s): <https://ecf.ca9.uscourts.gov/docs1/009030574217?uid=8c8caac698c1d11f>

Docket Text:

Filed (ECF) Appellant Tatyana Evgenievna Drevaleva response to order to show cause dated 12/04/2018. Date of service: 12/18/2018. [11123551] [18-17241] (Drevaleva, Tatyana)

Notice will be electronically mailed to:

Claire Truxaw Cormier, Assistant U.S. Attorney

Kimberly Robinson, Assistant U.S. Attorney

Tatyana Evgenievna Drevaleva

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: Drevaleva\_\_Response to the Order to Show Cause\_\_December 18, 2018\_\_COS.pdf

Electronic Document Stamp:

[STAMP acecfStamp\_ID=1106763461 [Date=12/18/2018] [FileNumber=11123551-0] [70d92f8845f1ba6fc1a1767d9901d8eff4f2715a45c04e623cd06a986544791df1f71f856ede0792c76b746cd2f7ed989ed3c68cb4cf210c462eafcce2db9eb5]]

## **Exhibit 5.**

The Order of the District Court of Northern California dated November 02, 2018 that denied my Motion to File a Supplemental Brief after Defendants presented the new information in their Reply to my Opposition to their Motion to Dismiss, and I was unable to present my objections to that Reply.

10 TATYANA EVGENIEVNA DREVALEVA,

11 Plaintiff,

12 v. No. C 18-03748 WHA

13 U.S. DEPARTMENT OF VETERANS  
14 AFFAIRS, et al.,

15 Defendants.

16 /  
17 **ORDER DENYING  
REQUEST TO FILE  
SUPPLEMENTAL  
BRIEFING**18 In this *pro se* employment discrimination action, defendants filed a motion to dismiss  
19 pursuant to FRCP 12(b)(1) and 12(b)(6). Plaintiff filed her opposition and defendants  
20 responded (Dkt. Nos. 40, 41). Plaintiff now requests leave to file supplemental briefing  
pursuant to Local Rule 7-3(d).21 Local Rule 7-3(d) states, “[o]nce a reply is filed, no additional memoranda, papers,  
22 or letters may be filed with the court without prior approval” unless new evidence has been  
23 submitted in the reply or relevant judicial opinions were published after the reply or opposition  
24 was filed. Neither exception applies here.25 Plaintiff alleges that defendants raised new issues in their reply that were not present  
26 in their motion to dismiss. Plaintiff, however, fails to identify these new issues and does not  
27 explain what information she found to be “misleading” in defendants’ reply (Dkt. No. 42 at 1).  
28 Plaintiff has already had the opportunity to present arguments and cite to case law in her

1 opposition and various other requests and motions she has submitted. The Court finds no basis  
2 for permitting additional briefing, thus, plaintiff's request for leave to file a supplemental brief is  
3 hereby **DENIED**.

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5 **IT IS SO ORDERED.**

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7 Dated: November 2, 2018.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

## **Exhibit 6.**

The Order of the District Court of Northern California dated November 14, 2018 that denied my Motion for Leave to File a Motion for Reconsideration of the Court's Order dated November 02, 2018.

10 TATYANA EVGENIEVNA DREVALEVA,

11 Plaintiff,

12 v. No. C 18-03748 WHA

13 U. S. DEPARTMENT OF VETERANS  
14 AFFAIRS, and ROBERT WILKIE, Secretary,  
15 U. S. Department of Veteran's Affairs,16 Defendants. / **ORDER DENYING MOTION  
FOR RECONSIDERATION**17 In this *pro se* employment discrimination action, plaintiff moves for reconsideration of  
18 the November 2 order denying her request to file supplemental briefing. This order finds no  
19 grounds for reconsideration.20 Under Civil Local Rule 7-9(b), a party moving for leave to file a motion for  
21 reconsideration must show one of the following:

- 22 (1) That at the time of the motion for leave, a material difference  
23 in fact or law exists from that which was presented to the Court  
24 before entry of the interlocutory order for which reconsideration is  
25 sought. The party also must show that in the exercise of reasonable  
diligence the party applying for reconsideration did not know such  
fact or law at the time of the interlocutory order; or
- 26 (2) The emergence of new material facts or a change of law  
occurring after the time of such order; or
- 27 (3) A manifest failure by the Court to consider material facts or  
28 dispositive legal arguments which were presented to the Court  
before such interlocutory order.

1       Here, plaintiff has not shown that any of the above three grounds applies in this matter.  
2 Instead, plaintiff alleges that defendants' counsel "didn't act in good faith" and that plaintiff did  
3 not previously have the chance to review the case law defendants cited in their motion to dismiss  
4 prior to filing her opposition. Moreover, plaintiff already made most of the arguments put forth  
5 in her opposition to defendants' motion to dismiss. Thus, allowing plaintiff to repeat her  
6 arguments would violate Local Rule 7-9(c), which states that "[n]o motion for leave to file a  
7 motion for reconsideration may repeat any oral or written argument made by the applying party."  
8 To the extent plaintiff raises new arguments in this motion, plaintiff is advised that a motion for  
9 leave to file a motion for reconsideration is an improper vehicle.

10      Accordingly, plaintiff's motion is **DENIED**.

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12      **IT IS SO ORDERED.**

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14      Dated: November 14, 2018.

15        
16      WILLIAM ALSUP  
17      UNITED STATES DISTRICT JUDGE

## **Exhibit 7.**

The Order of the Court of Appeals for the 9th Circuit (Mr. Sidney Thomas) dated January 24, 2019 that dismissed my Appeal No. 18-17307 of the Court's Order dated November 02, 2019 stating a lack of jurisdiction.

**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

JAN 24 2019

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

TATYANA EVGENIEVNA  
DREVALEVA,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF  
VETERANS AFFAIRS, and ROBERT  
WILKIE, United States Secretary of  
Veterans Affairs,

Defendants-Appellees.

No. 18-17307

D.C. No. 3:18-cv-03748-WHA  
Northern District of California,  
San Francisco

ORDER

Before: THOMAS, Chief Judge, GOULD and PAEZ, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the November 2, 2018 order challenged in the appeal is not final or appealable. *See* 28 U.S.C. § 1291. Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

**DISMISSED.**