

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 30 2019

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

LISA WASHINGTON,

No. 19-17353

Plaintiff-Appellant,

D.C. No. 4:19-cv-02271-JSW
Northern District of California,
Oakland

v.

DIANA DELEON; et al.,

ORDER

Defendants-Appellees.

A review of the district court's docket reflects that the district court has determined the appeal is frivolous 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 files a statement that the appeal should go forward, appellant also

must:

(1) file in this court a motion to proceed *in forma pauperis*, OR

(2) pay to the district court \$505.00 for the filing and docketing fees for this

appeal AND file in this court proof that the \$505.00 was paid.

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.

The briefing schedule for this appeal is stayed.

The Clerk shall serve on appellant: (1) a form motion to voluntarily dismiss the appeal, (2) a form statement that the appeal should go forward, and (3) a Form 4 financial affidavit. Appellant may use the enclosed forms for any motion to dismiss the appeal, statement that the appeal should go forward, and/or motion to proceed in forma pauperis.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Joseph Williams
Deputy Clerk
Ninth Circuit Rule 27-7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LISA WASHINGTON,

Plaintiff,

v.

DIANA DELEON, et al.,

Defendants.

Case No. 19-cv-02271-JSW

ORDER OF DISMISSAL

On July 9, 2019, the Court dismissed Plaintiff's first amended complaint and granted her a final opportunity to amend, in part, by August 12, 2019. On July 22, 2019, although the Court had not dismissed all claims with prejudice and had not entered judgment, Plaintiff filed a notice of appeal. On August 2, 2019, Plaintiff filed a motion asking that the Court stay proceedings until her appeal is resolved. On August 9, 2019, the Court granted that request and vacated the August 12, 2019 deadline to file an amended complaint. The Court stated it would reset the deadline for Plaintiff to amend after the United States Court of Appeals for the Ninth Circuit issued a ruling on the appeal.

On September 4, 2019, the Ninth Circuit dismissed the appeal for lack of jurisdiction. (See Dkt. No. 21.) On September 6, 2019, the Court issued an Order setting a deadline of October 4, 2019 to file an amended complaint with respect to her ADEA claim and meal break claim solely as to the UC Berkeley defendants, if Plaintiff could in good faith allege that she filed a charge of age discrimination with the EEOC within the time limits set forth 29 U.S.C. section 626(d) and could allege facts to show the Court would have supplemental jurisdiction over the meal break claim.

In that Order, the Court advised Plaintiff that if she failed to file a second amended

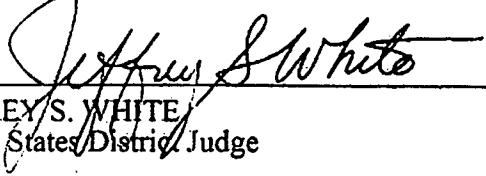
1 complaint that comports with this Order by October 4, 2019, the Court would enter a final order of
2 dismissal and enter judgment accordingly.

3 As of the date of this Order, Plaintiff has not filed an amended complaint. Accordingly,
4 for the reasons set forth in its Order dated July 9, 2019 the Court: DISMISSES Plaintiff's RICO
5 claims (first, second, and third claims) with prejudice and it DISMISSES the ADEA claim as to
6 TBS and the Burmese restaurant with prejudice. Because Plaintiff did not file an amended
7 complaint, the Court dismisses the ADEA claim against the Berkley Defendants with prejudice.
8 The Court dismisses the remaining state law claims as to all defendants without prejudice.

9 The Court shall enter a separate judgment, and the Clerk shall close this file.

10 **IT IS SO ORDERED.**

11 Dated: October 22, 2019

12 
13 JEFFREY S. WHITE
14 United States District Judge

15
16
17
18
19
20
21
22
23
24
25
26
27
28
United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LISA WASHINGTON,
Plaintiffs

V.

DIANA DELEON, et al.,
Defendants

Case No.: 4:19-cv-02271-JSW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that:

(1) I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California; and

(2) On 10/25/2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's office.

Lisa Washington
2342 Shattuck Avenue
Berkeley, CA 94704-1517

Dated: 10/25/2019

**Susan Y. Soong
Clerk, United States District Court**

By: Jennifer Ottolini, Deputy Clerk to
the Honorable Jeffrey S. White

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LISA WASHINGTON,

Plaintiff,

v.

DIANA DELEON, et al.,

Defendants.

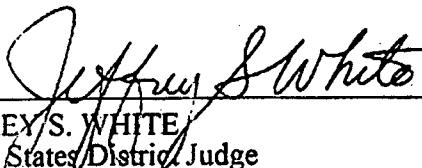
Case No. 19-cv-02271-JSW

JUDGMENT

For the reasons set forth in the Court's Order of Dismissal, issued this date, and in its Order dated July 9, 2019, dismissing Plaintiff's first amended complaint, the Court HEREBY ENTERS Judgment in this case.

IT IS SO ORDERED.

Dated: October 25, 2019



JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LISA WASHINGTON,

Plaintiffs,

V.

DIANA DELEON, et al.,

Defendants.

Case No.: 4:19-cv-02271-JSW

CERTIFICATE OF SERVICE

10 I, the undersigned, hereby certify that:

(1) I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California; and

(2) On 10/25/2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's office.

Lisa Washington
2342 Shattuck Avenue
Berkeley, CA 94704-1517

Dated: 10/25/2019

Susan Y. Soong
Clerk, United States District Court

By: Jennifer Ottolini, Deputy Clerk to
the Honorable Jeffrey S. White

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA

7 LISA WASHINGTON,
8 Plaintiff,

9 v.

10 DIANA DELEON, et al.,
11 Defendants.

Case No. 19-cv-02271-JSW

12 ORDER REVOKING IN FORMA
PAUPERIS STATUS

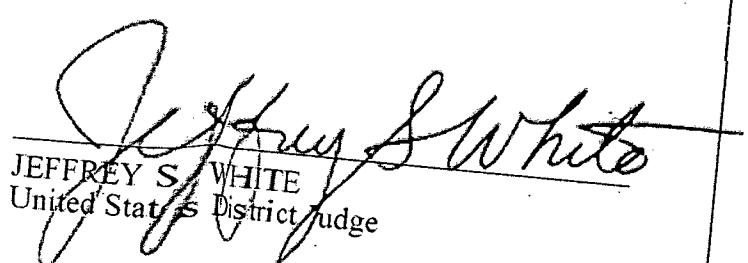
13 Re: Dkt. No. 29

14 On December 18, 2019, the United States Court of Appeals for the Ninth Circuit issued a
15 referral notice directing this Court to determine whether Plaintiff's *in forma pauperis* status should
16 continue for her appeal. Although the Court cannot say Plaintiff took the appeal in bad faith, it
17 does conclude that Plaintiff's appeal is frivolous. Therefore, it revokes Plaintiff's *in forma*
pauperis status.

18 **IT IS SO ORDERED.**

19 Dated: December 20, 2019

20
21
22
23
24
25
26
27
28
JEFFREY S. WHITE
United States District Judge



1
2
3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 LISA WASHINGTON,
8 Plaintiffs,
9
10 v.
11
12

13 DIANA DELEON, et al.,
14 Defendants.
15

16 Case No.: 4:19-cv-02271-JSW
17
18

19 CERTIFICATE OF SERVICE
20
21

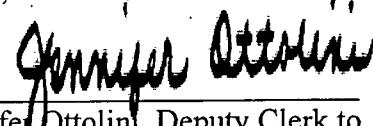
22 I, the undersigned, hereby certify that:
23
24

25 (1) I am an employee in the Office of the Clerk, U.S. District Court, Northern District of
26 California; and
27
28 (2) On 12/20/2019, I SERVED a true and correct copy(ies) of the attached, by placing said
29 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
30 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an
31 interoffice delivery receptacle located in the Clerk's office.
32
33

34 Lisa Washington
35 2342 Shattuck Avenue
36 Berkeley, CA 94704-1517
37
38

39 Dated: 12/20/2019
40
41

42 Susan Y. Soong
43 Clerk, United States District Court
44

45 By: 
46 Jennifer Ottolini, Deputy Clerk to
47 the Honorable Jeffrey S. White
48
49

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 18 2019

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

LISA WASHINGTON,

Plaintiff - Appellant,

v.

DIANA DELEON; et al.,

Defendants - Appellees.

No. 19-17353

D.C. No. 4:19-cv-02271-JSW
U.S. District Court for Northern
California, Oakland

REFERRAL NOTICE

This matter is referred to the district court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also* *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous).

If the district court elects to revoke in forma pauperis status, the district court is requested to notify this court and the parties of such determination within 21 days of the date of this referral. If the district court does not revoke in forma pauperis status, such status will continue automatically for this appeal pursuant to Fed. R. App. P. 24(a).

This referral shall not affect the briefing schedule previously established by this court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Cyntharee K. Powells
Deputy Clerk
Ninth Circuit Rule 27-7