

# APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 14 2022

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

CARINA CONERLY; M. T.,

No. 21-17041

Plaintiffs-Appellants,

D.C. No. 2:21-cv-01132-TLN-CKD  
Eastern District of California,  
Sacramento

v.

JULIE G. YAP; et al.,

ORDER

Defendants-Appellees.

Before: OWENS, LEE, and BUMATAY, Circuit Judges.

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). On January 11, 2022, this court ordered appellant to explain in writing why this appeal should not be dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Upon a review of the record, the response to the court's January 11, 2022 order, and the opening brief filed on February 10, 2022, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 6) and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

No further filings will be entertained in this closed case.

**DISMISSED.**

# APPENDIX B

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

## CARINA CONERLY.

No. 2:21-cv-01132-TLN-CKD

Plaintiff,

## ORDER

1

JULIE G. YAP, et al.,

Defendants.

On July 26, 2021, and again on October 27, 2021, the magistrate judge filed findings and recommendations (ECF Nos. 4, 8) in this matter which were served on Plaintiff and which contained notice to Plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. On August 10, 2021 and on November 10, 2021, Plaintiff filed objections to the findings and recommendations. (ECF Nos. 5, 9.)

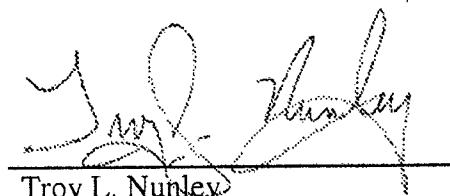
This Court reviews *de novo* those portions of the proposed findings of fact to which an objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981); *see also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed findings of fact to which no objection has been made, the court assumes its correctness and decides the matter on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The Court reviews the magistrate judge's conclusions of law *de novo*. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452,

1 454 (9th Cir. 1983).

2 The Court has reviewed the applicable legal standards and concludes it is appropriate to  
3 adopt the findings and recommendations in full. Accordingly, IT IS HEREBY ORDERED:

- 4 1. The findings and recommendations filed July 26, 2021 (ECF No. 4) and the findings  
5 and recommendations filed October 27, 2021 (ECF No. 8) are both ADOPTED in full;
- 6 2. Plaintiff's *Ex Parte* Application for an order granting sole legal and physical custody  
7 of minor daughter (ECF No. 3) is DENIED;
- 8 3. This action is dismissed without leave to amend for failure to state a claim; and
- 9 4. The Clerk of the Court is directed to close this case.

10 **DATE: November 29, 2021**

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Troy L. Nunley  
United States District Judge  
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*Eastern District of California – Live System*

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*Case Name:* (PS) Conerly et al v. Yap et al

*Case Number:* 2:21-cv-01132-TLN-CKD

*Filer:*

**WARNING: CASE CLOSED on 11/30/2021**

*Document Number:* 10

*Docket Text:*

ORDER signed by District Judge Troy L. Nunley on 11/29/21 ADOPTING both [4] [8] Findings and Recommendations in full DENYING [3] Ex Parte Application for sole legal and physical custody of minor daughter and DISMISSING action without leave to amend for failure to state a claim. CASE CLOSED (Benson, A.)

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JUDGMENT IN A CIVIL CASE

CARINA CONERLY, ET AL.,

CASE NO: 2:21-CV-01132-TLN-CKD

v.

JULIE G. YAP, ET AL.,

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**Decision by the Court.** This action came before the Court. The issues have been tried, heard or decided by the judge as follows:

IT IS ORDERED AND ADJUDGED

THAT JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE  
COURT'S ORDER FILED ON 11/30/21

Keith Holland  
Clerk of Court

ENTERED: November 30, 2021

by: /s/ A. Benson

Deputy Clerk

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--Case Participants: Magistrate Judge Carolyn K. Delaney (caed\_cmecl\_ckd@caed.uscourts.gov), District Judge Troy L. Nunley (caed\_cmecl\_tln@caed.uscourts.gov)

--Non Case Participants:

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*Eastern District of California – Live System*

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**Case Number:** 2:21-cv-01132-TLN-CKD

**Filer:**

**WARNING: CASE CLOSED on 11/30/2021**

**Document Number:** 11

**Docket Text:**

**JUDGMENT** dated \*11/30/21\* pursuant to order signed by District Judge Troy L. Nunley on 11/29/21.(Benson, A.)

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# APPENDIX C

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

JUL 06 2022

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

CARINA CONERLY and M. T.,  
Plaintiffs - Appellants,  
v.  
JULIE G. YAP; et al.,  
Defendants - Appellees.

No. 21-17041

D.C. No. 2:21-cv-01132-TLN-CKD  
U.S. District Court for Eastern  
California, Sacramento

**MANDATE**

The judgment of this Court, entered June 14, 2022, takes effect this date.  
This constitutes the formal mandate of this Court issued pursuant to Rule  
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Jessica Flores  
Deputy Clerk  
Ninth Circuit Rule 27-7

# **APPENDIX D**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

DEC 13 2021

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

CARINA CONERLY and M. T.,

Plaintiffs - Appellants,

v.

JULIE G. YAP; et al.,

Defendants - Appellees.

No. 21-17041

D.C. No. 2:21-cv-01132-TLN-CKD  
U.S. District Court for Eastern  
California, Sacramento

**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

# APPENDIX E

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 CARINA CONERLY, No. 2:21-cv-1132-TLN-CKD  
12 Plaintiff, ORDER  
13 v.  
14 JULIE G. YAP, et al.,  
15 Defendants.

17 On November 30, 2021, the Court dismissed this action. (ECF No. 10.) On December 9,  
18 2021, Plaintiff filed a notice of appeal. (ECF No. 12.) Thereafter, on December 13, 2021, the  
19 Ninth Circuit Court of Appeals referred this matter to the District court for the limited purpose of  
20 determining whether in forma pauperis status should continue for the appeal, or whether the  
21 appeal is frivolous or taken in bad faith. (ECF No. 15.)

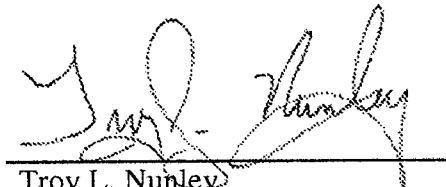
22        “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it  
23 is not taken in good faith.” 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302  
24 F.3d 1091, 1092 (9th Cir. 2002) (revocation of in forma pauperis status appropriate where district  
25 court finds the appeal to be frivolous). The good faith standard under 28 U.S.C. § 1915 is an  
26 objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). A plaintiff satisfies the  
27 “good faith” requirement if he or she seeks review of any issue that is “not frivolous.” *Gardner v.*  
28 *Pogue*, 558 F.2d 548, 551 (9th Cir. 1977) (*quoting Coppedge*, 369 U.S. at 445).

1 For the reasons stated in the July 26, 2021 findings and recommendations (*see* ECF No.  
2 4), and the October 27, 2021 findings and recommendations (ECF No. 8), both adopted by the  
3 Court on November 30, 2021 (ECF No. 10), the Court finds that the instant appeal is frivolous.  
4 The Court thus certifies that Plaintiff's appeal is not taken in good faith, and concludes Plaintiff's  
5 in forma pauperis status should not continue for purposes of the appeal.

6 Accordingly, IT IS HEREBY ORDERED:

7 1. Plaintiff's in forma pauperis status is REVOKED; and  
8 2. The Clerk of Court is directed to serve a copy of this order on Plaintiff and on the  
9 Ninth Circuit Court of Appeals.

10 **DATED: January 5, 2022**

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13 Troy L. Nunley  
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**Case Number:** 2:21-cv-01132-TLN-CKD

**Filer:**

**WARNING: CASE CLOSED on 11/30/2021**

**Document Number:** 16

**Docket Text:**

ORDER signed by District Judge Troy L. Nunley on 1/5/2022 REVOKED [15] as to Plaintiff's in forma pauperis status. The Clerk of Court is directed to serve a copy of this order on Plaintiff and on the Ninth Circuit Court of Appeals.(cc: USCA 21-17041, CFS)(Reader, L)

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