

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ALEKSANDRA CICHOWSKI and  
CEZARY CICHOWSKI,

Plaintiffs,

v.

FRED D. HOLLENBECK and TOM CASEY  
and CURAN HOLLENBECK AND ORTON, S.C.;  
THE BANK OF MAUSTON;  
ROBERT FAIT, President, Bank of Mauston;  
TOM SCHMIDT, Bank of Mauston;  
KELLY HONNOLD, Bank of Mauston;  
SCOT SCHMIDT and SAUK COUNTY, WISCONSIN;  
DONNA MUELLER, Clerk of Court of Sauk County;  
CARRIE, Civil Litigation Clerk;  
PAGGY, Financial Clerk;  
HONORABLE JUDGE GUY REYOLDS and  
HONORABLE JUDGE EVENSON, Sauk County;  
GENE WIEGEND, County Coordinator, Baraboo;  
BRANDT BAILEY, Baraboo;  
WAYNE MAFFEL and  
CROSS, JENKS, MERCER AND MAFFEI, Baraboo;  
M & I BANK and DAVE GITTER, Bank President;  
KETTY W. BAUER and DEBRA KING, Appleton;  
MARK L. KRUEGER and WILLIAM GREENHALGH  
and GREENHALGH AND KRUEGER, S.C., Baraboo;  
ADELA LUCARZ and JOSEPH LUCARZ, Baraboo; and  
TRUDI DELAIN and MADISON FREELANCE REPORTERS,  
Madison,

Defendants.

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ORDER

05-C-262-C

Judgment was entered in this case for defendants on July 10, 2006. Plaintiff Aleksandra Cichowski has filed a notice of appeal. (Plaintiff Cezary Cichowski did not join the notice of appeal and there is no indication in the certificate of service that he was served with a copy of the notice. Although normally this court disregards filings that are not served on all parties, in this one instance, the court is sending a copy of the notice to plaintiff Cezary Cichowski with a copy of this order.) Because plaintiff Aleksandra Cichowski has not paid the \$455 fee for filing a notice of appeal, I construe the notice as including a request for leave to proceed in forma pauperis on appeal.

As an initial matter, I note that plaintiff's appeal may be untimely. The deadline for filing the notice of appeal was August 9; her notice of appeal is postmarked August 14. (Plaintiff's appeal was not filed by the clerk of court until September 26. There was a delay in filing because plaintiff's notice of appeal was mistakenly sent to the probation department after it arrived at the courthouse.) However, only the court of appeals may determine whether it has jurisdiction to entertain an appeal. Hyche v. Christensen, 170 F.3d 769, 770 (7th Cir.1999). The district court's role with respect to an appeal is limited. Unless the party is a prisoner, a district court has authority to deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 only if the appeal is in not taken in good faith or if the party fails to show that she is indigent. Although I do not intend to certify that the appeal is in bad faith, I cannot determine whether plaintiff qualifies for indigent status on appeal

because she has not submitted an affidavit of indigency in support of her request for pauper status. Accordingly, I will stay a decision on her request for leave to proceed in forma pauperis on appeal pending her submission of a completed form for an affidavit of indigency, a copy of which is enclosed to her with this order.

#### ORDER

IT IS ORDERED that plaintiff Aleksandra Cichowki's request for leave to proceed in forma pauperis on appeal is STAYED until October 23, 2006.

Further, IT IS ORDERED that no later than October 23, 2006, plaintiff is to complete and return to the court the enclosed form for an affidavit of indigency. If, by October 23, 2006, plaintiff fails to submit an affidavit of indigency showing that she qualifies to proceed in forma pauperis, I will deny the request for her failure to establish her indigence.

Entered this 3d day of October, 2006.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge