IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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SUZANNAH META SCHMID,

ORDER

Plaintiff,

13-cv-383-bbc

v.

BANK OF AMERICA, N.A. and
ASSOCIATED BANK, N.A.,

Defendants.

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Judgment was entered in this case on August 29, 2013 dismissing plaintiff Suzannah Meta Schmid's claim for lack of subject matter jurisdiction as barred by the Rooker-Feldman doctrine. Now plaintiff has filed a notice of appeal and a request for leave to proceed on appeal in forma pauperis.

A district court has authority to deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 for one or more of the following reasons: the litigant wishing to take an appeal has not established indigence, the appeal is taken in bad faith or the litigant is a prisoner and has three strikes. § 1915(a)(1),(3) and (g). Sperow v. Melvin, 153 F.3d 780, 781 (7th Cir. 1998). Plaintiff's request for leave to proceed in forma pauperis on appeal will be denied, because I am certifying that her appeal is not taken in good faith.

In Lucien v. Roegner, 682 F.2d 625, 626 (7th Cir. 1982), the court of appeals instructed district courts to find bad faith in cases in which a plaintiff is appealing the same

claims the court found to be without legal merit. Lee v. Clinton, 209 F.3d 1025, 1027 (7th Cir. 2000). Plaintiff is trying to appeal the same claims that I dismissed for lack of subject matter jurisdiction. Because there is no legally meritorious basis for plaintiff's appeal, I must certify that the appeal is not taken in good faith.

Because I am certifying plaintiff's appeal as not having been taken in good faith, she cannot proceed with her appeal without prepaying the full appellate filing fee unless the court of appeals gives her permission to do so. Under Fed. R. App. P. 24, plaintiff has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. With her motion, she must include an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), with a statement of issues she intends to argue on appeal. Also, she must send along a copy of this order. Plaintiff should be aware that she must file these documents in addition to the notice of appeal she has filed previously.

If plaintiff does not file a motion requesting review of this order, the court of appeals might not address the denial of leave to proceed in forma pauperis on appeal. Instead, it may require plaintiff to pay the entire appellate filing fee before it considers her appeal. If plaintiff does not pay the fee within the deadline set, it is possible that the court of appeals will dismiss the appeal.

ORDER

IT IS ORDERED that plaintiff Suzannah Meta Schmid's request for leave to proceed in forma pauperis on appeal, dkt. #7, is DENIED. I certify that her appeal is not taken in good faith.

Entered this 10th day of October, 2013.

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