

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CURTIS J. NEELEY, JR.

PLAINTIFF

v.

CASE NO. 5:14-CV-05135

5 FEDERAL COMMUNICATIONS
COMMISSIONERS; FCC CHAIRMAN TOM
WHEELER; U.S. ATTORNEY GENERAL
ERIC HOLDER; MICROSOFT CORPORATION;
and GOOGLE, INC.

DEFENDANTS

ORDER

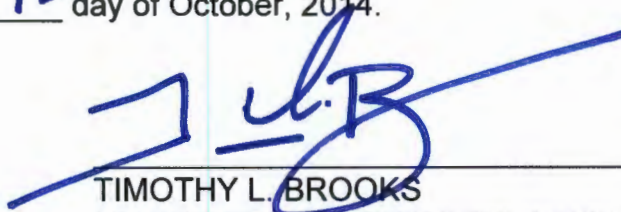
Currently before the Court is the Report and Recommendation (“R & R”) (Doc. 32) of the Honorable Erin L. Setser, United States Magistrate Judge for the Western District of Arkansas, filed in this case on September 23, 2014, regarding Plaintiff Curtis J. Neeley, Jr.’s Application to Proceed on Appeal without Prepaying Fees or Costs (Doc. 30). After careful review of the R & R, Plaintiff’s Objections (Docs. 33 and 34), and a *de novo* review of the record, the Court finds that Defendant’s objections offer neither law nor fact requiring departure from the Magistrate’s findings. Accordingly, the R & R should be, and hereby is **ADOPTED**.

On August 5, 2014, this Court dismissed Plaintiff’s Complaint with prejudice because it was filed in violation of the Court’s Injunction Order, it was barred by res judicata, and it otherwise failed to state a claim for relief. Plaintiff now seeks to appeal *in forma pauperis* (“IFP”) the judgment, the Court’s Order on his Motion for Reconsideration (Doc. 25), and the Court’s award of attorneys’ fees (Doc. 27). In addition to the reasons stated in the R & R, the Court observes that Plaintiff’s appeal on the merits is untimely.

Plaintiff was required to file his notice of appeal within 30 days after entry of the judgment or order appealed from. Fed. R. App. P. 4(a)(1)(A). The Court's Order of Dismissal (Doc. 22) was filed on August 5, 2014, and its Order Denying Reconsideration (Doc. 25) was filed on August 18, 2014. Plaintiff filed his Notice of Appeal (Doc. 28) on September 19, 2014—45 and 31 days, respectively, after the Court's Orders were filed.¹ Plaintiff's request to proceed IFP is not taken in good faith and will be denied. Plaintiff may renew his motion for leave to appeal IFP with the Court of Appeals for the Eighth Circuit pursuant to Fed. R. App. P. 24(a)(5).

IT IS THEREFORE ORDERED that Plaintiff's Application to Proceed on Appeal Without Prepaying Fees or Costs with Affidavit (Doc. 30) is **DENIED**.

IT IS SO ORDERED this 9th day of October, 2014.


TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE

¹Plaintiff's Notice of Appeal was filed within 30 days of the Court's Order on the attorney fee sanction (Doc. 27). The Court's Order (Doc. 27) informed Plaintiff that he had 14 days to respond to Google's Motion for Attorneys' Fees (Doc. 26), yet Plaintiff failed to file any objections. In his Objections to the Magistrate's R & R, Plaintiff does not address any issues pertaining to his IFP appeal of the Court's attorney fee order.