

FILED

UNITED STATES COURT OF APPEALS

MAR 28 2012

FOR THE NINTH CIRCUIT

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

ORACLE CORPORATION, a Delaware
corporation; et al.,

Plaintiffs - Appellees,

v.

TERRY M. MYERS,

Intervenor - Appellant,

v.

SAP AG, a German corporation; et al.,

Defendants - Appellees.

No. 12-15482

D.C. No. 4:07-cv-01658-PJH
Northern District of California,
Oakland

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

On April 26, 2011 and December 12, 2011, the district court entered orders denying appellant Terry Myers's two motions to intervene. No notice of appeal was filed within 60 days of either of those orders. On January 12, 2012, the district court entered an order stating that the district court would not accept appellant's motion improperly sent by e-mail and that appellant may not send submissions to the court by e-mail in the future. The order also stated that the court has reviewed, considered, and denied two prior motions to intervene, and it would not accept for

filing, consider, or respond to any additional such motions. On March 1, 2012, appellant filed a notice of appeal.

Because the March 1, 2012 notice of appeal was not filed within 60 days after the April 26, 2011 and December 12, 2011 orders, the scope of this appeal is limited to review of the January 12, 2012 order.

A review of the record demonstrates that this appeal may be appropriate for summary disposition because the questions on which the decision in the appeal depends may be so insubstantial as not to justify further proceedings. *See* 9th Cir. R. 3-6; *see also Hoover v. Switlik Parachute Co.*, 663 F.2d 964, 966 (9th Cir. 1981) (as a general rule, a person has standing to appeal if he or she was a party to the action at the time judgment was entered).

Within 21 days from the date of this order, appellant shall show cause why the judgment in this appeal should not be summarily affirmed. Appellees may file a reply to appellant's response within ten days from service of the response.

In addition, a review of this court's docket reflects that the filing and docketing fees for this appeal remain due. Within 21 days after the date of this order, appellant shall pay to the district court the \$455.00 filing and docketing fees for this appeal and file in this court proof of such payment or file in this court a motion to proceed in forma pauperis. Failure to pay the fees or file a motion to proceed in forma pauperis shall result in the automatic dismissal of the appeal by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

The Clerk shall serve a Form 4 financial affidavit on appellant.

Appellant's failure to comply with this order will result in the automatic dismissal of this appeal by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.