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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES S. POBURSKY, et al.,)	1:07cv0611 AWI DLB
)	
)	
Plaintiffs,)	FINDINGS AND RECOMMENDATION
)	REGARDING PLAINTIFFS' MOTION TO
v.)	PROCEED IN FORMA PAUPERIS ON
)	APPEAL
MADERA COUNTY, et al.,)	(Document 241)
)	
Defendants.)	

On January 13, 2011, Plaintiffs James and Wanda Pobursky filed a notice of appeal of this Court's December 13, 2010, order dismissing this action with prejudice.

Also on January 13, 2011, Plaintiffs filed an "Affidavit Accompanying Notice of Appeal to File In Forma Pauperis."

On February 17, 2011, the Court determined that their application was insufficient and ordered Plaintiffs to complete the attached "Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis." Plaintiffs were ordered to complete the documentation within twenty (20) days of the date of the order.

On March 11, 2011, Plaintiffs responded with a "Supplemental Affidavit Accompanying Motion for In Forma Pauperis on Appeal."

For the reasons that follow, the Court recommends that Plaintiffs' motion be denied.

1 **DISCUSSION**

2 Plaintiffs' March 11, 2011, filing is the latest in a long history of refusals to follow this
3 Court's orders. In the Court's February 17, 2011, order, the Court explained that their January
4 13, 2011, filing did not provide sufficient information to allow for a determination. It explained
5 that although the affidavit stated that Mr. Pobursky was the sole supporter of his family and
6 could not pay court fees, his statement lacked sufficient financial detail. The Court also
7 explained that although they stated that they were entitled to redress on appeal, Plaintiffs failed to
8 identify the issues they intended to present on appeal. The Court cited Federal Rule of Appellate
9 Procedure 24(a)(1), which requires both a detailed description of Plaintiffs' financial information
10 and a statement of the issues on appeal. To assist Plaintiffs in completing this information, the
11 Court attached the Ninth Circuit's required form and also referred Plaintiffs to the Ninth Circuit's
12 website where the form could be found.

13 Rather than simply comply with the Court's order and complete the form, Plaintiffs
14 submitted their own document. Although the filing states two issues that Plaintiffs intend to
15 raise on appeal, it does not provide any detailed financial information as required by Rule
16 24(a)(1). The filing again states that Mr. Pobursky is the sole supporter of his family and is
17 unable to pay court fees. It adds that he has not returned to work and that the family income falls
18 below the poverty level guidelines of the United States.

19 The financial information provided is not sufficient to make a determination and does not
20 comply with the Court's February 17, 2011, order. Despite this Court's clear explanation and an
21 opportunity to correct the prior deficiencies, Plaintiffs have again taken it upon themselves to
22 decide what information they will disclose to the Court. The information provided does not
23 allow the Court to determine whether Plaintiffs are entitled to proceed in forma pauperis on
24 appeal and the Court recommends that the motion be DENIED.

1 **RECOMMENDATION**

2 Based on the above, the Court RECOMMENDS that Plaintiffs' application to proceed in
3 forma pauperis on appeal be DENIED.

4 These Findings and Recommendation are submitted to the Honorable Anthony W. Ishii,
5 United States District Court Judge, pursuant to the provisions of [28 U.S.C. § 631](#) (b)(1)(B) and
6 Rule 305 of the Local Rules of Practice for the United States District Court, Eastern District of
7 California. Within thirty days (plus three days if served by mail) after being served with a copy,
8 any party may serve on opposing counsel and file with the court written objections to such
9 proposed Findings and Recommendation. Such a document should be captioned "Objections to
10 Magistrate Judge's Findings and Recommendation." Replies to the objections shall be served
11 and filed within ten (10) days (plus three days if served by mail) after service of the objections.
12 The Court will then review the Magistrate Judge's ruling pursuant to [28 U.S.C. § 636](#) (b)(1).

13
14 IT IS SO ORDERED.

15 **Dated: March 16, 2011**

/s/ Dennis L. Beck
16 UNITED STATES MAGISTRATE JUDGE