

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CONSTANCE FARLOW,)	
)	
Plaintiff,)	
)	C.A. No. 06C-04-066 MMJ
v.)	
)	
WYNDHAM INTERNATIONAL,)	
INC.,)	
)	
Defendant.)	

Submitted: April 7, 2006
Decided: May 25, 2006

ORDER

**UPON PETITIONER’S MOTION TO PROCEED
*IN FORMA PAUPERIS***

GRANTED

Upon consideration of Constance Farlow (“Plaintiff”)’s civil complaint and Motion to Proceed *In Forma Pauperis* and the record, it appears to the Court that:

1. Plaintiff filed a civil complaint and Motion to Proceed *In Forma Pauperis* with the Court on April 7, 2006.

2. In the complaint, Plaintiff alleges that she tripped on a loose strip and fell on the wet marble floor at the Wyndham Hotel on April 7, 2004. As a result of

the fall, Plaintiff alleges that she injured her knee, went through an expensive diagnostic procedure involving x-rays and MRI, had surgery, and is currently undergoing therapy. Plaintiff provides medical records to corroborate her claim of knee injury.

3. Since June 1996, the procedure for consideration of applications to proceed *in forma pauperis* has been governed by statute.¹ The statutory scheme sets out a two-part review process. The first step requires this Court to examine the financial information supplied with the application to determine if the application should be granted or denied. Second, if granted, the Court must conduct an initial screening of the underlying action.²

4. When applying to proceed *in forma pauperis*, the applicant must supply certain information in an affidavit.³ Plaintiff has attached the required paperwork which establishes that she is indigent. Consequently, the Court grants the Motion to Proceed *In Forma Pauperis*.

¹Title 10 *Del. C.* Ch. 88, enacted June 28, 1996.

²*Gagnon v. Taylor*, 1998 WL 729625, at *1 (Del.Super).

³10 *Del. C.* § 8802(b): “Such affidavit shall contain a statement that the affiant is unable to pay the costs and fees, and shall provide complete information as to the affiant’s identity, the nature, source and amount of all of the affiant’s income, the affiant’s spouse’s income, all real and personal property owned either individually or jointly, all cash or bank accounts held either individually or jointly, any dependants of the affiant, and all debts and monthly expenses. The affiant shall further swear or affirm that the information in the affidavit is true and correct and made under penalty of perjury.”

5. Granting of the Motion to Proceed *In Forma Pauperis* does not mean, necessarily, that Plaintiff's action will proceed. The Court must review the complaint to determine if the allegations contained therein are actually and legally meritorious.⁴

6. In her complaint, Plaintiff provides documentation regarding office visits, diagnostic procedures such as MRI, and surgery related to her knee injury.

7. Based upon Plaintiff's assertions, which are accepted as true solely for purposes of reviewing the complaint, the Court concludes that the action should proceed at this time. Once the defendant has answered, the Court will be able to determine if Plaintiff's claims are legally and/or factually meritorious.

8. In light of the foregoing, the Court allows the action to move forward and instructs that service of process issue.

9. **THEREFORE**, Plaintiff's Motion to Proceed *In Forma Pauperis* is hereby **GRANTED**.

10. The Court also has determined, upon a review of the complaint, that the complaint does not appear on its face to be legally or factually frivolous. Consequently, service of process shall issue.

⁴10 *Del. C.* §§ 8803(a)-(b).

IT IS SO ORDERED.

The Honorable Mary M. Johnston

ORIGINAL: PROTHONOTARY'S OFFICE - CIVIL. DIV.