

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**May 22, 2006**

**Elisabeth A. Shumaker**  
**Clerk of Court**

PETER WASKO,

Plaintiff - Appellant,

v.

HERBERT M. SILVERBERG,

Defendant - Appellee.

No. 05-2368  
(D. Ct. No. CIV-05-1073 JB/RHS)  
(D. N. Mex.)

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**ORDER AND JUDGMENT\***

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Before **TACHA**, Chief Circuit Judge, **HARTZ**, and **TYMKOVICH**, Circuit Judges.

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After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This appeal is from an order of the District Court denying in forma pauperis status to Plaintiff-Appellant Peter Wasko, who sought to file a malpractice suit against his

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\*This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

attorney for his failure to win an age discrimination claim on Mr. Wasko's behalf. Appearing pro se, Mr. Wasko appeals on the ground that the District Court did not adequately consider his assets when it denied his in forma pauperis request. Mr. Wasko seeks to have this Court grant in forma pauperis status and allow him to continue without the payment of appropriate fees.

We review the denial by the District Court of a motion to proceed in forma pauperis for an abuse of discretion. *Lister v. Dept. of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). We have reviewed the filings provided by Mr. Wasko and agree with the District Court that the motion to proceed in forma pauperis should be denied. By his own admissions, Mr. Wasko clearly has sufficient assets to warrant the requirement by the District Court that fees be paid. The order of the District Court is affirmed.

ENTERED FOR THE COURT,

Deanell Reece Tacha  
Chief Circuit Judge