

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WO**

KM

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

William W. Castle,  
Plaintiff,

vs.

Eurofresh, Inc., et al.,  
Defendants.

No. CV 09-8114-PCT-MHM (DKD)

**ORDER**

Plaintiff William W. Castle, who is confined in the Arizona State Prison Complex-Winslow, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the \$350.00 civil action filing fee or filed a proper Application to Proceed *In Forma Pauperis*. The Court will give Plaintiff 30 days to pay the fee or file a completed Application to Proceed *In Forma Pauperis*.

**I. Payment of Filing Fee**

When bringing an action, a prisoner must either pay the \$350.00 filing fee in a lump sum or, if granted the privilege of proceeding *in forma pauperis*, pay the fee incrementally as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma pauperis* requires an affidavit of indigence and a *certified* copy of the inmate’s trust account statement for the six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must submit statements from each institution where he was confined during the six-month period.

1 Id. To assist prisoners in meeting these requirements, the Court requires use of a form  
2 application. LRCiv 3.4(a).

3 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an  
4 initial partial filing fee of 20% of either the average monthly deposits or the average monthly  
5 balance in Plaintiff's account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial  
6 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The  
7 balance of the fee will be collected in monthly payments of 20% of the preceding month's  
8 income credited to an inmate's account, each time the amount in the account exceeds \$10.00.  
9 28 U.S.C. § 1915(b)(2).

## 10 **II. Application Fails to Comply With Statute**

11 Plaintiff has used the court-approved form, but the "Certificate of Correctional  
12 Official as to Status of Applicant's Trust Account" section is not completed, and Plaintiff has  
13 not submitted a certified six-month trust account statement. In light of these deficiencies,  
14 Plaintiff will be permitted 30 days to either pay the \$350.00 filing fee or file a complete  
15 Application to Proceed *In Forma Pauperis*.

16 The Arizona Department of Corrections (ADOC) has notified the Court that a certified  
17 trust fund account statement showing deposits and average monthly balances is available  
18 from the ADOC's Central Office. *Accordingly, Plaintiff must obtain the certified copy of his*  
19 *ADOC trust fund account statement for the six months immediately preceding the filing of*  
20 *the Complaint from the ADOC's Central Office.*

## 21 **III. Warnings**

### 22 **A. Address Changes**

23 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
24 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
25 relief with a notice of change of address. Failure to comply may result in dismissal of this  
26 action.

### 27 **B. Copies**

28 Plaintiff must submit an additional copy of every filing for use by the Court. See

1 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice  
2 to Plaintiff.

3 **C. Possible Dismissal**

4 If Plaintiff fails to timely comply with every provision of this Order, including these  
5 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,  
6 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to  
7 comply with any order of the Court).

8 **IT IS ORDERED:**

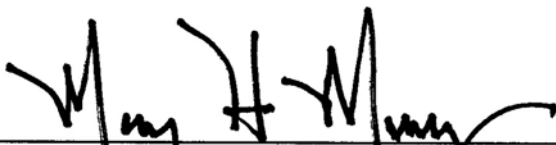
9 (1) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. #3) is **denied**  
10 **without prejudice.**

11 (2) Within 30 days of the date this Order is signed, Plaintiff must either pay the  
12 \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* and a  
13 certified six-month trust account statement from the ADOC's Central Office.

14 (3) If Plaintiff fails to either pay the \$350.00 filing fee or file a completed  
15 Application to Proceed *In Forma Pauperis* within 30 days, the Clerk of Court must enter a  
16 judgment of dismissal of this action without prejudice and without further notice to Plaintiff.

17 (4) The Clerk of the Court must mail Plaintiff a court-approved form for filing  
18 an Application to Proceed *In Forma Pauperis* (Non-Habeas).

19 DATED this 10<sup>th</sup> day of July, 2009.

20  
21  
22   
23 \_\_\_\_\_  
24 Mary H. Murguía  
25 United States District Judge  
26  
27  
28