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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES S. POBURSKY, et al.,)	1:07cv0611 AWI DLB
)	
)	
Plaintiffs,)	ORDER DENYING MOTION FOR
)	TRANSCRIPTS AT GOVERNMENT
v.)	EXPENSE WITHOUT PREJUDICE
)	
MADERA COUNTY, et al.,)	(Document 237)
)	
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.

On February 14, 2011, Plaintiffs filed a document entitled, “Motion for Transcripts in Forma Pauperis” in which they request that the Court “grant transcripts in forma pauperis.”

A litigant who has been granted leave to proceed in forma pauperis on appeal may move to have transcripts produced at government expense. See 28 U.S.C. § 753(f); McKinney v. Anderson, 924 F.2d 1500, 1511-12 (9th Cir.1991) (production of transcript at government expense for in forma pauperis appellant in civil case proper if trial judge certifies “that the appeal is not frivolous and presents a substantial question”) (subsequent history omitted). Both 28 U.S.C. sections 1915(c) and 753(f) govern such requests.

In this action, however, Plaintiffs have not yet been granted in forma status on appeal. Plaintiffs filed an incomplete application on January 13, 2011, and have been given an opportunity to file an additional affidavit.

1 Moreover, it is not clear from Plaintiffs' notice of appeal whether the appeal presents a
2 substantial question.

3 Plaintiffs are also informed that the appellate court has access to this Court's file in this
4 case, and will request any necessary documents in the record directly from this Court. Plaintiffs
5 may also obtain audio recordings of hearings before this Court for \$26.00 per hearing and can
6 contact the Court for further information.

7 Plaintiffs' motion for transcripts is therefore DENIED WITHOUT PREJUDICE.
8 Plaintiffs may renew this motion if they are granted in forma pauperis status on appeal.

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IT IS SO ORDERED.

Dated: February 17, 2011

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE