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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

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|---------------------------|---|-----------------------------------|
| SOPHIA LOPEZ, |) | Case No. 1:09-cv-2174-LJO-JLT |
| |) | |
| Plaintiff, |) | ORDER REQUIRING PLAINTIFF TO FILE |
| |) | AMENDED AFFIDAVIT SUPPORTING |
| vs. |) | HER REQUEST TO PROCEED IN FORMA |
| |) | PAUPERIS |
| MARTHA JOHNSON, and RENEE |) | |
| RICHARDSON, |) | |
| |) | ORDER REQUIRING CLERK TO FILE |
| |) | MOTION TO PROCEED IN FORMA |
| |) | PAUPERIS ATTACHED AS EXHIBIT A TO |
| |) | PLAINTIFF'S MOTION FOR |
| Defendants. |) | RECONSIDERATION (Doc. 12) |
| _____ |) | |

19 Plaintiff is proceeding pro se and with a civil rights action pursuant to 42 U.S.C. § 1983.
20 Plaintiff also seeks to proceed *in forma pauperis*. (Docs. 6 and 12 (Ex. A)). Although this case
21 was previously dismissed and judgment entered, on April 19, 2010, the Court granted Plaintiff's
22 motion for relief from the judgment, vacated the dismissal of her action, and directed that the
23 Magistrate Judge act on her application to proceed *in forma pauperis*. (Doc. 13).

24 Upon remand, the Court notes discrepancies between the application filed by Plaintiff on
25 January 7, 2010, (Doc. 6), and the application attached to her motion for relief from the judgment
26 filed on April 9, 2010. (Doc. 12, Ex. A). For instance, in her application filed on January 7,
27 2010, Plaintiff stated that she had no income but that her husband received \$872 in monthly SSI
28 benefits. (Doc. 6 at 2, 4). In addition, Plaintiff stated that she received \$400 a month from

1 “California Welfare for our four children.” (Doc. 6 at 2). She further stated that all of her
2 children, including a “recently returned” 19-year old, “are dependent upon my husband and I for
3 support.” (Id. at 3).

4 Conversely, in an application attached to the motion for relief from judgment, Plaintiff
5 again states that she has no income or assets, but now states that she receives \$533 a month in
6 state welfare payments for her “two minor children.” (Doc. 12, Ex. A at 2). In addition, she now
7 states that her husband receives “\$65 monthly” in disability payments from the Social Security
8 Administration. (Id., Ex. A at 3). She makes no mention of the two other children listed in her
9 January 10, 2010 affidavit and application, in particular the “recently returned” 19-year old she
10 previously included as a dependant. (See id.)

11 In light of these unexplained inconsistencies, the Court will direct that Plaintiff file a new
12 application and supporting affidavit to proceed *in forma pauperis*. Plaintiff will clarify these
13 discrepancies by clearly listing her husband’s monthly income and whether she is supported by
14 that income, the total amount and frequency (monthly or otherwise) that she receives in state
15 welfare payments for her dependant children, and any other income and/or assets she or her
16 husband possess and, as required by question 3 of the Application to Proceed Without
17 Prepayment of Fees and Affidavit, Plaintiff will outline the amount of money that she “expects
18 [she] will continue to receive.”

19 Finally, Plaintiff is ordered to clarify the number of children that are dependant upon her
20 and her husband for financial support. If any of her dependant children are 18 years of age or
21 older, she is ordered to explain why they are dependant upon her for support, whether they
22 actually live in the home and whether they contribute to the household expenses. See Adkins v.
23 E.I. Dupont de Nemours & Co., 335 U.S. 331, 339 (1948); see also Monti v. McKeon, 600
24 F.Supp. 112, 114 (D. Conn. 1984) (“in ruling on motions to proceed in forma pauperis, . . . courts
25 have considered the income of interested persons, such as spouses and parents, in evaluating the
26 funds available to the movant . . . If plaintiff is supported by her spouse, and her spouse is
27 financially able to pay the costs of this appeal, it follows that the plaintiff’s own lack of funds
28 will not prevent her from gaining access to the courts.”)

1 Accordingly, within ten days of service of this order, Plaintiff is directed to file a new
2 application and affidavit, signed under penalty of perjury, containing the information outlined in
3 the body of this order. Plaintiff is admonished that failure to comply with this order may result in
4 denial of her motion to proceed *in forma pauperis*.

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6 IT IS SO ORDERED.

7 Dated: April 26, 2010

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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