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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JOSE A. ORTIZ,

Plaintiff,

v.

GEORGIA PACIFIC,

Defendant.

) 1:12-cv-1033 LJO GSA

) **ORDER DENYING PLAINTIFF’S**  
) **APPLICATION TO PROCEED**  
) **WITHOUT PREPAYMENT OF FEES**  
) **FILED JULY 23, 2012**

) (Document 9)

**PROCEDURAL BACKGROUND**

Plaintiff Jose A. Ortiz is proceeding pro se in this civil action for employment discrimination. (Doc. 1.) Along with the complaint filed on June 26, 2012, Plaintiff submitted a document entitled “Application To Proceed In Forma Pauperis.”<sup>1</sup> (Doc. 2.) Following review and consideration of that original application, the Court issued its amended order on July 3, 2012, denying the application and requiring that Plaintiff to submit the \$350 filing fee no later than July

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<sup>1</sup>This application was not submitted on the form regularly used in the United States District Court for the Eastern District.

1 30, 2012. (Doc. 4.) Thereafter, on July 9, 2012, Plaintiff filed a request for the Court to appoint  
2 counsel to represent him (Doc. 5), as well as a document entitled “Revision For Denying  
3 Application To Proceed Without Prepayment Of Fees/To Proceed In Forma Pauperis.” (Doc. 6.)

4 Following consideration of the request to appoint counsel, Magistrate Judge Gary S.  
5 Austin denied the request. (Doc. 7.) However, the magistrate judge also ordered the Clerk of the  
6 Court to provide Plaintiff with this Court’s approved application to proceed without payment of  
7 filing fee, recognizing a possible discrepancy - between the original application and the request  
8 under consideration - regarding Plaintiff’s employment status. (Doc. 8.)

9 Presently before the Court is Plaintiff’s second application to proceed in forma pauperis.  
10 (Doc. 9.) For the reasons that follow, the Court denies the application.

#### 11 **DISCUSSION**

12 The application submitted on July 23, 2012, provides that Plaintiff is not currently  
13 employed. He last worked for Defendant Georgia Pacific in December 2011. (Doc. 9 at 1.)  
14 Plaintiff currently receives disability benefits of \$509.14 per week. (Doc. 9 at 1-2.) He has  
15 \$5,000 in a checking or savings account and owns a 2004 Dodge Durango. (Doc. 9 at 2.)  
16 Plaintiff’s wife Cecilia and son Jose depend solely upon him for their own support. (Doc. 9 at 2.)

17 Plaintiff receives approximately \$509.00 per week as a disability benefit. That sum  
18 multiplied by fifty-two weeks exceeds the federal poverty guideline<sup>2</sup> of \$19,090 for a family of  
19 three ( $\$509 \times 52 = \$26,468$ ). Equally significant however is the fact that Plaintiff has \$5,000 in a  
20 checking or saving account at present. Thus, funds are available to Plaintiff well in excess of the  
21 required filing fee. As a result, Plaintiff is not entitled to proceed without payment of the filing  
22 fee. In forma pauperis status is reserved for those individuals with a true financial need who can  
23 demonstrate an inability to pay the required filing fee.

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27 <sup>2</sup><http://aspe.hhs.gov/poverty/12poverty.shtml>.

**ORDER**

In light of the foregoing, this Court finds Plaintiff is *not* entitled to proceed without prepayment of the \$350 filing fee. Further, Plaintiff is advised that in order to proceed with his action in this Court, he must pay a filing fee of \$350 (*see* 28 U.S.C. § 1914) no later than August 15, 2012.

IT IS SO ORDERED.

**Dated: July 25, 2012**

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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