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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 JOEY FITCH, ) Case No.: 1:16-cv-00489 - DAD - JLT  
12 )  
13 Plaintiff, ) ORDER GRANTING PLAINTIFF’S MOTION  
14 ) TO PROCEED IN FORMA PAUPERIS  
15 v. ) (Doc. 2)  
16 JOSEPH GALLAND, )  
17 ) ORDER DIRECTING CLERK TO ISSUE NEW  
18 ) CASE DOCUMENTS  
19 )  
20 ) ORDER DIRECTING PLAINTIFF TO  
21 ) COMPLETE THE SERVICE DOCUMENTS  
22 )  
23 )  
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28 )

18 Plaintiff Joey Fitch initiated this action by filing a complaint and motion to proceed *in forma pauperis*. (Docs. 1, 2) The Court may authorize the commencement of an action without prepayment of fees “by a person who submits an affidavit that includes a statement of all assets such person . . . possesses [and] that the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a). The Court has reviewed the motion and finds Plaintiff satisfies the requirements of 28 U.S.C. § 1915(a).

25 When, as here, an individual seeks to proceed *in forma pauperis*, the Court is required to review  
26 the complaint and shall dismiss a complaint, or portion of the complaint, if it is “frivolous, malicious or  
27 fails to state a claim upon which relief may be granted; or . . . seeks monetary relief from a defendant  
28 who is immune from such relief.” 28 U.S.C. § 1915A(b); 28 U.S.C. § 1915(e)(2). A plaintiff’s claim

1 is frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible, whether or  
2 not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S.  
3 25, 32-33 (1992). Thus, the Court has reviewed the allegations of the Complaint, and finds the  
4 allegations presented are not futile.

5 Accordingly, the Court **ORDERS:**

- 6 1. Plaintiff’s motion to proceed *in forma pauperis* is **GRANTED**;
- 7 2. The Clerk of Court is **DIRECTED** to issue summons as to the defendant, Joseph  
8 Galland;
- 9 3. The Clerk of Court is **DIRECTED** to serve Plaintiff with New Civil Case Documents,  
10 USM-285 Forms, a Notice of Submission of Documents form, an instruction sheet, and  
11 a copy of the Complaint;
- 12 4. Within thirty days from the date of this order, Plaintiff **SHALL** complete the attached  
13 Notice of Submission of Documents and submit the completed Notice to the Court with  
14 the following documents:
  - 15 a. A completed USM-285 form for the defendant; and
  - 16 b. Four copies of the complaint filed on April 7, 2016.
- 17 5. Plaintiff need not attempt service on the defendants and need not request waiver of  
18 service. Upon receipt of the above-described documents, the Court will direct the  
19 United States Marshal to serve the defendant pursuant to Federal Rule of Civil  
20 Procedure 4 without payment of costs.

21  
22 IT IS SO ORDERED.

23 Dated: **April 12, 2016**

**/s/ Jennifer L. Thurston**  
UNITED STATES MAGISTRATE JUDGE