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

TONYA D. ENGELBRECHT,

Plaintiff,

v.

KELLY RIPA, et al.,

Defendants.

Case No. 1:17-cv-01339-LJO-EPG

**ORDER DENYING MOTION TO
PROCEED IN FORMA PAUPERIS**

(ECF No. 2)

Plaintiff Tonya D. Engelbrecht is proceeding pro se in this action alleging, among other things, defamation of character. (ECF No. 1.) On October 5, 2017, Plaintiff submitted an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF No. 2.)

A civil action may proceed despite a failure to prepay the entire filing fee only if the party initiating the action is granted leave to proceed in forma pauperis. See *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). The decision whether to grant leave to proceed in forma pauperis is in the sound discretion of the Court. See *Calif. Men’s Colony v. Rowland*, 939 F.2d 854, 858 (9th Cir. 1991) (“Section 1915 typically requires the reviewing court to exercise its sound discretion in determining whether the affiant has satisfied the statute’s requirement of indigency”), *rev’d on other grounds*, 506 U.S. 194 (1993). “[T]here is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn IFP status.” *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015).

In applying to proceed in forma pauperis, a party must submit an affidavit that “state[s]

1 the facts as to [the] affiant's poverty with some particularity, definiteness and certainty."
2 Jefferson v. United States, 277 F.2d 723, 725 (9th Cir. 1960) ("The right to proceed in forma
3 pauperis is not an unqualified one. It is a privilege, rather than a right"). The party "need not be
4 absolutely destitute to obtain benefits of the in forma pauperis statute." Id. at 725. Nevertheless,
5 the affidavit must show that the party "cannot because of [her] poverty pay or give security for
6 the costs and still be able to provide [herself] and dependents with the necessities of life."
7 Escobedo, 787 F.3d at 1235 (citing Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339
8 (1948)).

9 Here, Plaintiff has failed to demonstrate that she is unable to pay the court's filing fee due
10 to poverty or indigence. Plaintiff states that she owns a home and a motor vehicle, but fails to
11 state their value. Even so, Plaintiff states that she receives social security disability income of
12 \$1,400 per month, has \$12,000 in cash or savings, and has no dependents. While a party need not
13 be destitute to obtain benefits of the in forma pauperis statute, (Jefferson, 277 F.2d at 725),
14 Plaintiff's affidavit demonstrates that she has access to sufficient funds to pay the filing fee and
15 provide herself with basic necessities. Accordingly, Plaintiff's application to proceed in forma
16 pauperis is denied.

17 Based on the foregoing, **IT IS HEREBY ORDERED** that:

18 Plaintiff must either pay the filing fee or file an amended in forma pauperis application
19 within fourteen (14) days of the date of this Order. If Plaintiff files an amended application, she
20 must detail her assets and liabilities with particularity, definiteness and certainty to allow the
21 Court to determine whether she is unable to pay the filing fee.

22 **No requests for extension will be granted without a showing of good cause. Failure**
23 **to timely comply with this order will result in a recommendation that this action be**
24 **dismissed.**

25 IT IS SO ORDERED.

26 Dated: October 16, 2017

27 /s/ Eric P. Groj
28 UNITED STATES MAGISTRATE JUDGE