

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GERALDINE PIERCE, et al.,

Case No. 1:17-cv-01603-DAD-BAM

Plaintiffs,

**ORDER STRIKING UNSIGNED COMPLAINT
AND MOTION AND REQUIRING PLAINTIFF
TO FILE A SIGNED COMPLAINT WITHIN
THIRTY DAYS**

V

PRESIDENT DONALD J. TRUMP, et al.

(ECF Nos. 1 and 2)

Defendants.

**ORDER REQUIRING PLAINTIFF TO FILE AN
APPLICATION TO PROCEED IN FORMA
PAUPERIS OR PAY FILING FEE WITHIN
THIRTY DAYS**

THIRTY (30) DAY DEADLINE

Plaintiff Geraldine Pierce is proceeding pro se in this civil rights action pursuant to 42 § 1983. Ms. Pierce filed her complaint on December 4, 2017, and purports to bring claims on behalf of herself and others. (ECF No. 1.) On the same date, Ms. Pierce also filed a motion for an opportunity to be heard, to e-file, and for judicial notice. (ECF No. 2.)

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1 Upon review, the Court notes that neither the complaint nor the accompanying motion is
2 signed by Plaintiff Geraldine Pierce.¹ Both the Federal Rules of Civil Procedure and this Court's
3 Local Rules require that all filed pleadings, motions and papers be signed by at least one attorney
4 of record or by the party personally if the party is unrepresented. Fed. R. Civ. P. 11(a); Local
5 Rule 131(b). Since Plaintiff's complaint and motion are unsigned, the Court must strike them
6 from the record. Plaintiff Geraldine Pierce will be permitted thirty (30) days to file a signed
7 complaint and motion that comply with Federal Rules of Civil Procedure and the Local Rules.

8 Additionally, Plaintiff Geraldine Pierce has neither paid the \$400.00 filing fee for this
9 action nor submitted an application to proceed in forma pauperis on the appropriate form pursuant
10 to 28 U.S.C. § 1915.

11 Based on the foregoing, it is HEREBY ORDERED that:

- 12 1. Plaintiff's complaint and accompanying motion, filed December 4, 2017, are
13 STRICKEN from the record for lack of signature;
- 14 2. The Clerk's Office shall send plaintiff an application to proceed in forma pauperis
15 for a non-prisoner;
- 16 3. Within **thirty (30) days** from the date of service of this order, Plaintiff SHALL file
17 a signed complaint or a notice of voluntary dismissal and either file a motion seeking leave to
18 proceed in forma pauperis or pay the \$400.00 filing fee for this action; and
- 19 4. **If Plaintiff fails to comply with this order, the Court will recommend**

20 ¹ The complaint was signed by purported co-plaintiff, Seavon Pierce, a state prisoner, and
21 challenges the dismissal of Mr. Pierce's prior action, *Seavon Pierce v. Fernando Gonzales, et al.*,
22 Case No. 1:10-cv-00285-JLT. As neither the requisite filing fee nor an application to proceed in
23 forma pauperis accompanied the complaint, it appears that Mr. Pierce is attempting to avoid the
three-strike provisions of 28 U.S.C. § 1915(g) by having Geraldine Pierce file this action.

24 Mr. Pierce is admonished that pleadings and other papers presented for any improper
25 purpose, such as to harass or cause unnecessary delay, may result in the imposition of sanctions
26 pursuant to Federal Rule of Civil Procedure 11. Rule 11 provides, "[b]y presenting to the court a
pleading, written motion, or other paper . . . an attorney or unrepresented party certifies to the best
27 of the person's knowledge . . . it is not being presented for any improper purpose, such as to
harass, cause unnecessary delay, or needlessly increase the cost of litigation." Fed. R. Civ. P.
28 11(b)(1). If this rule has been violated, the Court may impose an appropriate sanction on any
party that violated the rule. Fed. R. Civ. P. 11(c)(1), (3).

1 **dismissal of this action, with prejudice, for failure to prosecute and failure to obey a court**
2 **order.**

3 IT IS SO ORDERED.
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5 Dated: December 6, 2017

6 /s/ *Barbara A. McAuliffe*
7 UNITED STATES MAGISTRATE JUDGE

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