

1 In the affidavit filed January 8, 2019, Plaintiff reported that her husband’s income is \$4,500 per
2 month and did not identify any household expenses. (Doc. 2 at 2) In addition, Plaintiff indicated their
3 savings account currently has \$3,000. (*Id.*) Because the information provided did not support the
4 conclusion that Plaintiff satisfied the requirements of 28 U.S.C. § 1915, the Court ordered Plaintiff to
5 show cause in writing why the request to proceed *in forma pauperis* should not be denied. (Doc. 3)

6 In response, Plaintiff filed a second application to proceed *in forma pauperis* on January 29,
7 2019. (Doc. 4) In the second application, Plaintiff reported that her spouse’s monthly income is
8 \$6,830.00, and that he receives an average of \$2,000.00 in gifts each month over the past year. (*Id.* at
9 1) She asserts they pay \$3,819.08 per month in expenses related to home payment, utilities, home
10 maintenance, food, clothing, laundry, medical expenses, transportation, and insurance. (*See id.* at 4)
11 Plaintiff also reports making credit card payments in the amount of \$1,700 per month. (*Id.* at 4, 5)
12 Further, she reports spending \$441.00 per month on “[r]ecreation, entertainment, newspapers,
13 magazines, etc.” (*Id.* at 4) In total, Plaintiff identifies \$5,960.08 in monthly expenses. Thus, the
14 reported income—excluding gifts—exceeds the expenses by more than \$800. Further, Plaintiff
15 indicated the checking account has \$600.00; savings account has \$2,000.00; and a trust account “for
16 medical expenses” has \$3,000.00 (*Id.* at 1, 6)

17 Given the reported monthly income— as well as the amount currently in checking and savings
18 accounts—the Court finds Plaintiff fails to demonstrate she is unable to pay the filing fee due to
19 poverty. Requiring Plaintiff to pay the Court filing fees would not impair her ability to obtain the
20 necessities of life. *See Adkins*, 335 U.S. at 339.

21 **ORDER**

22 Good cause appearing, the Clerk of Court is DIRECTED to assign a United States District
23 Judge to this action.

24 **FINDINGS AND RECOMMENDATIONS**

25 Based upon the foregoing, the Court **RECOMMENDS**:

- 26 1. Plaintiff’s motion to proceed *in forma pauperis* be **DENIED**; and
- 27 2. Plaintiff be directed to pay the filing fee within ten days of any order adopting these
28 recommendations.

1 These Findings and Recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local
3 Rules of Practice for the United States District Court, Eastern District of California. Within 14 days
4 after being served with these Findings and Recommendations, Plaintiffs may file written objections
5 with the Court. Such a document should be captioned “Objections to Magistrate Judge's Findings and
6 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may
7 waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991);
8 *Wilkerson v. Wheeler*, 772 F.3d 834, 834 (9th Cir. 2014).

9
10 IT IS SO ORDERED.

11 Dated: January 31, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE