

1 The determination of whether a plaintiff is indigent and therefore unable to pay the filing fee falls
2 within the court’s sound discretion. *California Men’s Colony v. Rowland*, 939 F.2d 854, 858 (9th
3 Cir. 1991) (reversed on other grounds).

4 “The trial court must be careful to avoid construing the statute so narrowly that a litigant is
5 presented with a Hobson’s choice between eschewing a potentially meritorious claim or foregoing
6 life’s plain necessities.” *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984) (citing *Potnick*
7 *v. Eastern State Hosp.*, 701 F.2d 243, 244 (2d Cir. 1983) (per curiam). See also *Carson v. Polley*,
8 689 F.2d 562, 586 (5th Cir. 1982). “But, the same even-handed care must be employed to assure
9 that federal funds are not squandered to underwrite, at public expense, either frivolous claims or
10 the remonstrances of a suitor who is financially able, in whole or in material part, to pull his own
11 oar.” *Temple*, 586 F. Supp. at 850 (citing *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651
12 (7th Cir. 1972)). “If an applicant has the wherewithal to pay court costs, or some part thereof,
13 without depriving himself and his dependents (if any there be) of the necessities of life, then he
14 should be required, in the First Circuit’s phrase, to ‘put his money where his mouth is.’” *Williams*
15 *v. Latins*, 877 F.2d 65 (9th Cir. 1989) (citing *Temple*, 586 F. Supp. at 851 (quoting *In re Stump*, 449
16 F.2d 1297, 1298 (1st Cir. 1971) (per curiam)). Many courts have held that petitioners with modest
17 cash reserves are not entitled to in forma pauperis status within the intendment of 28 U.S.C. §
18 1915(a) for the purpose of filing fees, initial service of process costs and the like. *Temple*, 586 F.
19 Supp. at 850–51.

20 **B. Discussion**

21 According to his application, Plaintiff has received unspecified income over the past twelve
22 months, including \$500,000 in interest income. (Doc. 3 at 1.) Plaintiff also has \$27,284,279.87 in
23 cash. (Id. at 2.) Based on these representations, the Court finds that Plaintiff has not made the
24 showing required by Section 1915(a) that he is unable to pay the required fees for this action.
25 Accordingly, the undersigned recommends that Plaintiff’s application to proceed without
26 prepayment of fees and costs be denied.

1 **III. PLAINTIFF IS SUBJECT TO THE THREE-STRIKES PROVISION OF 28 U.S.C.**
2 **§ 1915(g) AND DOES NOT MEET THE IMMINENT DANGER EXCEPTION**

3 Even if Plaintiff's application established poverty, however, he is not entitled to proceed
4 without prepayments of fees because he has at least three strikes under Section 1915(g) and does
5 not qualify for the imminent danger exception.

6 **A. Legal Standard**

7 Section 1915(g) provides that "[i]n no event shall a prisoner bring a civil action . . . under
8 this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any
9 facility, brought an action or appeal in a court of the United States that was dismissed on the grounds
10 that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the
11 prisoner is under imminent danger of serious physical injury."

12 **B. Discussion**

13 The Court may take judicial notice of court records. *United States v. Howard*, 381 F.3d
14 873, 876 n.1 (9th Cir. 2004). Here, judicial notice is taken of four of Plaintiff's many prior actions:
15 (1) *Favor-El v. Rome*, Case No. 1:15-cv-01865-LJO-EPG (E.D. Cal.) (dismissed on November 22,
16 2016 for failure to state a claim); (2) *Favor v. State of California*, Case No. 2:16-cv-02870-JGB-
17 JEM (C.D. Cal.) (dismissed on May 2, 2016 as frivolous, malicious, and for failure to state a claim);
18 (3) *Favor-El v. Rihanna, et al.*, 2:15-cv-09502-JGB-JEM (C.D. Cal.) (dismissed on December 16,
19 2015 as frivolous, malicious, and for failure to state a claim); and (4) *Favor-El v. United States of*
20 *America*, Case No. 2:15-cv-01448-GEB-AC (E.D. Cal.) (dismissed on October 22, 2015 as
21 frivolous). As he has been previously informed¹, Plaintiff is thus subject to 28 U.S.C. § 1915(g)
22 and is precluded from proceeding in forma pauperis in this action, unless he has shown that at the
23 time he filed this action, he was under imminent danger of serious physical injury.

24 The Court has reviewed Plaintiff's complaint and finds that he does not meet the imminent
25 danger exception. See *Andrews v. Cervantes*, 493 F.3d 1047, 1053 (9th Cir. 2007). Although

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27 ¹ See, e.g., *Favor v. Monae*, Case No. 1:19-cv-00081-LJO-SKO (E.D. Cal.). It is also noteworthy that Plaintiff has
28 been deemed a vexatious litigant, has filed over fifty actions in this district alone, and has filed numerous other actions
in the other district courts in this state. Plaintiff has also filed actions under the surnames "Favor" and "Favor-El."

