

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLEN HAMMLER.

Plaintiff,

V.

ZYDUS PHARMACY, et al.,

Defendants

Case No. 1:21-cv-00343-JLT (PC)

**ORDER DISREGARDING PLAINTIFF'S
MOTION FOR EXTENSION OF TIME
(Doc. 9)**

**FINDINGS AND RECOMMENDATIONS TO
DENY PLAINTIFF'S MOTION TO
PROCEED *IN FORMA PAUPERIS*
(Doc. 10)**

14-DAY DEADLINE

Clerk of the Court to Assign a District Judge

Before the Court is Plaintiff's motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.¹ (Doc. 10.) The certified trust account statement attached to his motion indicates that Plaintiff has \$1,830.45 in his inmate trust account. (*Id.* at 4.) This is more than enough to pay the \$402 filing fee for this action in full.

Proceeding “in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed *in forma pauperis*, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), “the same even-handed

¹ Plaintiff concurrently filed a motion for an extension of time to file his motion to proceed *in forma pauperis*. (Doc. 9.) Because Plaintiff filed his motion to proceed IFP (Doc. 10) within the time previously provided by the Court (see Doc. 7), his motion for an extension of time is unnecessary. The Court therefore DISREGARDS the motion for an extension (Doc. 9).

1 care must be employed to assure that federal funds are not squandered to underwrite, at public
2 expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole
3 or in material part, to pull his own oar,”” *Doe v. Educ. Enrichment Sys.*, No. 15-cv-2628-MMA-
4 MDD, 2015 U.S. Dist. LEXIS 173063, *2 (S.D. Cal. 2015) (quoting *Temple v. Ellerthorpe*, 586
5 F. Supp. 848, 850 (D.R.I. 1984)).

6 Plaintiff has more than enough funds to pay the filing fee for this action in full.
7 Accordingly, the Court RECOMMENDS that his motion to proceed *in forma pauperis* (Doc. 10)
8 be DENIED. The Court DIRECTS the Clerk of the Court to assign a district judge to this action.

9 These Findings and Recommendations will be submitted to the United States District
10 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of
11 service of these Findings and Recommendations, Plaintiff may file written objections with the
12 Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and
13 Recommendations.” Failure to file objections within the specified time may result in waiver of
14 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
15 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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17 IT IS SO ORDERED.

18 Dated: June 2, 2021

19 /s/ Jennifer L. Thurston
20 CHIEF UNITED STATES MAGISTRATE JUDGE
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