

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIKAELLA ALFARO,

Plaintiff,

No. 2:12-CV-2543 JAM CKD PS

vs.

FRED JOHNSON,

Defendant.

ORDER AND ORDER TO SHOW CAUSE

\_\_\_\_\_ /

Plaintiff is proceeding pro se. Plaintiff has filed an in forma pauperis affidavit in which she states that she receives monthly income in the amount of \$5400.00 and has \$75,000 in her checking account.

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action "without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor." 28 U.S.C. § 1915(a). The amount of plaintiff's earnings and assets shows that plaintiff is able to pay the filing fee and costs. Thus, plaintiff has made an inadequate showing of indigency. See Alexander v. Carson Adult High Sch., 9 F.3d 1448 (9th Cir. 1993); California Men's Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991); Stehouwer v. Hennessey, 841 F. Supp. 316, (N.D.

1 Cal. 1994). Plaintiff will therefore be granted twenty-one days in which to submit the  
2 appropriate filing fee to the Clerk of the Court. Plaintiff is cautioned that failure to pay the fee  
3 will result in a recommendation that the application to proceed in forma pauperis be denied and  
4 the instant action be dismissed without prejudice.

5 In the complaint, plaintiff complains about the actions of an individual who is not  
6 a state actor. The complaint, however, does not allege a basis for subject matter jurisdiction in  
7 this court. The federal courts are courts of limited jurisdiction. In the absence of a basis for  
8 federal jurisdiction, plaintiff's claims cannot proceed in this venue. Because there is no basis for  
9 federal subject matter jurisdiction evident in the complaint, plaintiff will be ordered to show  
10 cause why this action should not be dismissed. Failure to allege a proper basis for subject matter  
11 jurisdiction will result in a recommendation that the action be dismissed.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Within twenty-one days from the date of this order, plaintiff shall submit the  
14 appropriate filing fee; and

15 2. No later than November 12, 2012, plaintiff shall show cause why this action  
16 should not be dismissed for lack of subject matter jurisdiction.

17 Dated: October 29, 2012

18   
19 CAROLYN K. DELANEY  
20 UNITED STATES MAGISTRATE JUDGE

21 4  
alfaro2543.den.nosmj