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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY MONTE, et al.,  
Plaintiffs,  
v.  
CITY OF LODI, et al.,  
Defendants.

No. 2:17-cv-0411 MCE DB

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiffs Anthony Monte, Phil Monte, and Patricia Monte, proceeding through counsel, commenced this action on February 23, 2017, by filing a complaint and requests to proceed in forma pauperis. (ECF Nos. 1-4.) On March 1, 2017, the assigned District Judge referred to the undersigned the resolution of plaintiffs’ motions to proceed in forma pauperis. (ECF No. 5.)

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). In addition, a \$50.00 general administrative fee for civil cases must also be paid. 28 U.S.C. § 1914(b). The court may authorize the commencement of an action “without prepayment of fees . . . by a person who submits an affidavit” showing that he or she is unable to pay such fees. 28 U.S.C. § 1915(a).

Here, the in forma pauperis applications filed by plaintiffs Phil Monte and Patricia Monte make the showing required by the statute. However, the application of plaintiff Anthony Monte reflects that he earns \$1,700 per month, has \$300 in a checking or savings account, and has only \$662 in regular monthly expense. (ECF No. 2 at 1-2.)

1 In light of plaintiff Anthony Monte's stated financial situation, the undersigned finds that  
2 he has failed to show that he is unable to pay the filing fees. Thus, plaintiff Anthony Monte has  
3 made an inadequate showing of indigency. See Olivares v. Marshall, 59 F.3d 109, 111 (9th Cir.  
4 1995) ("Requiring the payment of fees according to a plaintiff's ability to pay serves the dual  
5 aims of defraying some of the judicial costs of litigation and screening out frivolous claims.").

6 Accordingly, IT IS HEREBY ORDERED that:


- 7 1. Plaintiff Phil Monte's February 23, 2017 motion to proceed in forma pauperis (ECF  
8 No. 3) is granted; and  
9 2. Plaintiff Patricia Monte's February 23, 2017 motion to proceed in forma pauperis (ECF  
10 No. 4) is granted.

11 Also, IT IS HEREBY RECOMMENDED that plaintiff Anthony Monte's February 23,  
12 2017 motion to proceed in forma pauperis (ECF No. 2) be denied and he be directed to pay the  
13 applicable filing fee within 30 days of the date of any order adopting these findings and  
14 recommendations.

15 These findings and recommendations will be submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, plaintiffs may file written objections  
18 with the court. A document containing objections should be titled "Objections to Magistrate  
19 Judge's Findings and Recommendations." Plaintiffs are advised that failure to file objections  
20 within the specified time may waive the right to appeal the District Court's order. See Martinez  
21 v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 Dated: March 7, 2017

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28 DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE