

1 2021 WL 2534461, at *1 (E.D. Cal. June 21, 2021), the court finds reliance on just the poverty
2 guideline is not enough to make a sufficient determination of a litigant’s ability to pay. As the
3 Ninth Circuit has noted, “[a]n affidavit in support of an IFP application is sufficient where it
4 alleges that the affiant cannot pay the court costs and still afford the necessities of life.”
5 *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015) (citing *Adkins v. E.I. DuPont de*
6 *Nemours & Co.*, 335 U.S. 331, 339 (1948)). In his affidavit, plaintiff declares he has a monthly
7 income of approximately \$2,000 and monthly expenses of \$2,380 for rent and utilities. IFP
8 Appl., ECF No. 2. He also declares he has no liquid assets. *Id.* This leaves plaintiff with no
9 income beyond his monthly cash flow, which is a net negative. *Cf. C.C.R.*, 2021 WL 2534461, at
10 *1 (denying IFP status after finding plaintiff had “approximately \$1,200.00 of income beyond her
11 expenses each month”). Accordingly, the court finds the magistrate judge’s analysis does not
12 support the recommended denial of IFP status at this time.

13 However, the court recognizes there is a pending motion to strike before the magistrate
14 judge, challenging the veracity of the statements in plaintiff’s affidavit. *See* Mot. Strike, ECF
15 No. 8. In the motion to strike, defendant argues plaintiff has omitted certain sources of income
16 from his affidavit. *Id.* at 3–4. Because the motion to strike raises issues related to plaintiff’s IFP
17 application, this matter will be referred back to the assigned magistrate judge for further review
18 and consideration of whether plaintiff meets the standard of 28 U.S.C. § 1915 as interpreted by
19 *Escobedo* and *Adkins*.

20 Accordingly, IT IS ORDERED that:

- 21 1. The Findings and Recommendations filed April 20, 2023 (ECF No. 9), are NOT
22 ADOPTED;
- 23 2. This matter is referred back to the assigned magistrate judge for further proceedings
24 consistent with this order.

25 DATED: May 23, 2023.

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28 CHIEF UNITED STATES DISTRICT JUDGE