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United States District Court

For the Northern District of California

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

JAN A. WEITH,

No. C 05-5370 CRB

Plaintiff,

ORDER

v.

UNITED STATES OF AMERICA, et al.

Defendants.

Now before the Court is plaintiff's application to proceed *in forma pauperis* ("IFP"). A court may authorize a plaintiff to prosecute an action in federal court without prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). Plaintiff has submitted the required documentation, and it is apparent from her application that her assets and income are insufficient to enable plaintiff to prosecute the action.

Viewing plaintiff's application in isolation, it appears that she should be allowed to proceed IFP. A court is under a continuing duty, however, to dismiss a case whenever it determines that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B)(i) -- (iii).

1 Plaintiff's complaint appears to allege RICO claims against defendants and requests
2 damages of \$1 billion. Plaintiff's complaint includes no facts or substantive allegations and
3 therefore fails to state a claim upon which relief can be granted. As a result, to the extent
4 plaintiff's complaint alleges claims against a government entity, it is DISMISSED without
5 leave to amend.

6
7 **IT IS SO ORDERED.**

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9 Dated: January 17, 2006



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California

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