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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JULIO V. LLANOS,

Plaintiff,

v.

WASHINGTON MUTUAL,

Defendant.

No. C 08-0552 PJH

**ORDER DISMISSING
COMPLAINT**

Before the court is plaintiff Julio V. Llanos' application to proceed in forma pauperis and "Petition for Libel of Review of an Administrative Judgment," both of which were filed January 25, 2008.

The Court may authorize a plaintiff to file 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. 28 U.S.C. § 1915(a). The in forma pauperis statute also provides that the Court shall dismiss the case if at any time the Court determines that the allegation of poverty is untrue, or that the action (1) is frivolous or malicious, (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Here, plaintiff's application fails to establish a viable allegation of poverty, and the petition itself fails to state any claim upon which relief may be granted. First, in his IFP application, plaintiff states that he is employed by Synergy Companies, and that his gross salary per month is "\$41,700," with a net monthly income of "\$30,004.00." Plaintiff also indicates that he owns a home, and that he owns two vehicles which are not financed. Plaintiff's monthly debt payments total \$310.00. It appears that plaintiff may have made a

United States District Court
For the Northern District of California

1 common mistake, and listed his yearly gross and monthly incomes, as opposed to his
2 monthly income. Even so, however, plaintiff's allegations as a whole make it difficult to
3 determine whether plaintiff warrants IFP status; a net salary of \$2500 per month (based on
4 a yearly net income of \$30,004.00), in view of only \$310.00 worth of debt payments per
5 month, and the fact that plaintiff owns a home and two automobiles, counsel against a
6 finding of poverty.

7 Regardless whether plaintiff can sufficiently allege that his financial status warrants
8 IFP treatment, however, plaintiff's complaint fails to state a claim. Plaintiff alleges, for
9 example, that he is petitioning the court for a "Review of Foreign Judgment," without
10 indicating the foreign judgment for which she seeks review. He also asserts that all parties
11 are "U.S. Vessels and fit the legal definition of a U.S. Vessel," such that the "Public Vessels
12 Act" applies, but never alleges any conduct allegedly falling under the Act. Similarly, she
13 invokes the First Judiciary Act, Foreign Sovereign Immunity Act, Bills of Lading Act, and
14 Admiralty Extension Act, without ever clearly defining the nature of any conduct or
15 grievances that fall under any of these Acts. Finally, while plaintiff seeks relief in relation to
16 an alleged "agreement/contract" and further seeks to have the court "enforce the
17 Administrative findings in the perfected agreement," plaintiff fails to sufficiently identify the
18 nature of the alleged agreement or any administrative decision. In sum, the court can
19 discern no basis upon which relief may be granted to plaintiff.

20 Accordingly, the instant complaint is hereby DISMISSED, pursuant to 28 U.S.C. §
21 1915(e)(2)(B), and plaintiff's corresponding application to proceed in forma pauperis is
22 furthermore DENIED as moot. The dismissal is with prejudice. The clerk shall close the
23 file.

24 **IT IS SO ORDERED.**

25 Dated: February 1, 2008



26 _____
27 PHYLLIS J. HAMILTON
28 United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JULIO V LLANOS,
Plaintiff,

Case Number: CV08-00552 PJH

CERTIFICATE OF SERVICE

v.

WASHINGTON MUTUAL et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 5, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Julio Victor Llanos
175 Seville Street
San Francisco, CA 94112

Dated: February 5, 2008



Richard W. Wieking, Clerk
By: Nichole Heuerman, Deputy Clerk