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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

LEONARD D. ROSS, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DENISE M. MOSS, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Case No.: C 08-4554 WDB

**ORDER DENYING APPLICATION  
TO PROCEED IN FORMA  
PAUPERIS AND DISMISSING  
COMPLAINT**

On September 30, 2008, Plaintiff filed a Complaint along with an Application to Proceed in Forma Pauperis. Plaintiff also filed a Consent to Proceed before a United States Magistrate Judge. Having reviewed Plaintiff's Complaint and In Forma Pauperis Application,

IT IS HEREBY ORDERED that the Application be denied and the Complaint dismissed.

The federal *in forma pauperis* statute, enacted in 1892 and presently codified as 28 U.S.C. § 1915, is designed to ensure that indigent litigants have meaningful access to the federal courts. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 342-343 (1948). To this end, § 1915(a) allows a litigant to commence a civil action in federal

1 court *in forma pauperis* by filing in good faith an affidavit stating, *inter alia*, that he is  
2 unable to pay the costs of the lawsuit. *See Neitzke v. Williams*, 490 U.S. 319, 324 (1989).  
3 Preliminarily, however, under 28 U.S.C. § 1915(e), where a plaintiff seeks to proceed in  
4 *forma pauperis*, the Court must dismiss the complaint if it determines that the complaint is  
5 frivolous or malicious, or that the plaintiff has failed to state a claim upon which relief  
6 can be granted. 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

7 Here, the document that we construe as Plaintiff's Complaint falls directly within  
8 the category of pleadings identified in § 1915(e). It is unclear exactly what claims  
9 Plaintiff is making in his Complaint. The Complaint itself consists only of a cover sheet  
10 and several documents from the Superior Court of California in what appears to be an  
11 ongoing family law matter between Plaintiff and Ms. Denise M. Moss. Mr. Ross sets  
12 forth no allegations about any causes of action he intends to bring before this federal  
13 court, and the Complaint he has filed cannot fairly be read to state any claim under the  
14 Federal Rules of Civil Procedure. There is no indication that Plaintiff can cure these  
15 deficiencies.

16 Accordingly, pursuant to 28 U.S.C. § 1915(e), Plaintiff's Complaint is  
17 **DISMISSED** and his application to proceed in *forma pauperis* is **DENIED**.<sup>1</sup>

18  
19 IT IS SO ORDERED.

20 Dated: 10/30/08

21  
22   
23 WAYNE D. BRAZIL  
24 United States Magistrate Judge

25  
26  
27 <sup>1</sup> A Magistrate Judge may not deny an application to proceed in *forma pauperis* or  
28 issue an Order dismissing a case without the consent of plaintiff. *See Tripathi v. Rison*, 847 F.2d  
548 (9<sup>th</sup> Cir. 1988). Plaintiff here has filed a consent to Magistrate Judge jurisdiction and, thus,  
this dispositive Order is permissible.