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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

YOHONIA MARTIN,  
Plaintiff,  
v.  
ELENA JAMES,  
Defendant.

Case No. 15-cv-2417-PJH

**ORDER DISMISSING CASE**

Plaintiff Yohonia Martin filed this action on June 1, 2015, asserting unspecified claims against Magistrate Judge Maria-Elena James of this court, in connection with rulings issued in Martin v. Wells Fargo Bank (N.D. Cal., No. C-12-0244 MEJ). Also on June 1, 2015, plaintiff filed a request for leave to proceed in forma pauperis (“IFP”).

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)(1). Plaintiff has submitted a declaration in which she makes the showing required under 28 U.S.C. § 1915(a). Accordingly, the request to proceed IFP will be granted.

However, § 1915 imposes the additional requirement that the court must dismiss the action prior to service of process if the complaint is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary damages against defendants who are immune from suit. 28 U.S.C. § 1915(e)(2); see also Franklin v. Murphy, 745 F.2d 1221, 1226-27 (9th Cir. 1984).

Here, while the complaint is not entirely comprehensible, it is clear that plaintiff is

1 attempting to assert claims against Judge James in connection with rulings and other  
2 actions taken in connection with Case No. C-12-0244 MEJ. A federal judge is absolutely  
3 immune from civil liability for acts performed in his judicial capacity and, unlike the judicial  
4 immunity available to state judges sued under 42 U.S.C. § 1983, a federal judge's  
5 immunity is not limited to immunity from damages, but extends to actions for declaratory,  
6 injunctive and other equitable relief. See Moore v. Brewster, 96 F.3d 1240, 1243 (9th Cir.  
7 1996); Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385, 1394 (9th Cir. 1987) (applying  
8 judicial immunity to actions under Bivens). Accordingly, because Judge James is  
9 immune from suit relating to actions performed in her judicial capacity, regardless of the  
10 basis of any claim plaintiff may be attempting to assert, the action must be DISMISSED.

11 The court notes further that rather than submitting the IFP request on the form  
12 approved by this judicial district, which appears on the court's website, plaintiff has used  
13 a more abbreviated form. This court's form requests more financial information than the  
14 form submitted by plaintiff, and also asks whether the complaint the plaintiff is seeking to  
15 file raises claims that have been presented in other lawsuits, while the form utilized by  
16 plaintiff does not. The court has searched PACER, and has learned that plaintiff has  
17 previously filed more than one lawsuit in which she raises claims that appear to relate to  
18 the claims asserted in C-12-0244 MEJ, and thus to the present action.

19 On October 13, 2011, plaintiff filed suit in the Northern District of Georgia, alleging  
20 that in 1999 she opened an account with Wells Fargo Bank in Pittsburg, California; that  
21 an acquaintance stole some unspecified amount of money from the account; that in April  
22 2000 she went into the East Leland Branch of the bank, located inside Kroger, and  
23 discovered that Wells Fargo had closed the account for fraudulent activity; one week later  
24 she learned that a check for the balance of \$20,000 had been issued in her name and  
25 sent to her "alternate" address, which was the home of her grandparents; and that she  
26 had for many years been attempting to recover the funds. See Martin v. Wells Fargo  
27 Bank (N.D. Ga., C-11-0285 RWS), Doc. 1. On November 15, 2011, the Georgia court  
28 dismissed the complaint for lack of subject matter jurisdiction (no federal question and

1 failure to allege jurisdictional minimum) without prejudice, and entered judgment. Id.,  
2 Docs. 7, 8.

3 On December 12, 2011, plaintiff filed suit in the Eastern District of California,  
4 alleging that she opened an account with Wells Fargo Bank in August 1999; that Wells  
5 Fargo closed the account for fraudulent activity; that \$58,000 had been stolen from the  
6 account but Wells Fargo failed to use the Federal Deposit Insurance Corporation  
7 procedure to return the funds to her; that the bank sent a check for the remaining balance  
8 of \$30,000 to her “permanent” address in San Pablo, California; and that she has for  
9 many years been attempting to recover the funds. See Martin v. Wells Fargo Bank (E.D.  
10 Cal., C-11-3294 EFB), Doc. 1. On March 6, 2012, the court dismissed the complaint with  
11 leave to amend. Id., Doc. 3. On May 14, 2012, after plaintiff failed to file an amended  
12 complaint, the court dismissed the action without prejudice and entered judgment. Id.,  
13 Docs. 5, 6.

14 Meanwhile, on January 13, 2012, plaintiff filed suit in this court, alleging that she  
15 opened an account with Wells Fargo Bank in August 1999; that an acquaintance stole  
16 \$58,000 from the account; that Wells Fargo Bank closed the account in 2001, at which  
17 time it had a balance of \$20,000; that Wells Fargo recovered the \$58,000 from the  
18 Federal Deposit Insurance Corporation, but did not return the funds to her; that Wells  
19 Fargo mailed a check for \$20,000 to her “permanent” address in San Pablo, California;  
20 that the \$20,000 check was cashed by another person without permission; and that she  
21 has for many years been attempting to recover the funds. See Martin v. Wells Fargo  
22 Bank, (N.D. Cal., C-12-0244 MEJ), Docs. 1, 30. This is the lawsuit whose handling by  
23 Judge James is the subject of the complaint in the instant action.

24 On August 1, 2012, the court referred the case for a settlement conference, which  
25 was held on November 14, 2012. Id., Doc. 43. The case settled, and the parties were  
26 ordered to submit a stipulation and proposed order of dismissal. Id. No stipulation or  
27 proposed order appears on the docket. Three months later, on February 11, 2013, the  
28 court, noting that the parties had advised that the case had settled, issued a conditional

1 dismissal, dismissing the case with prejudice. Id., Doc. 44. The order added that if any  
2 party certified to the court within thirty days of the date of the dismissal that the  
3 consideration for the settlement had not been delivered, the order of dismissal would be  
4 vacated and the cause restored to the calendar to be set for trial. Id. Nothing was filed  
5 by either party within 30 days of the February 11, 2013 order.

6 On September 9, 2013, and again on January 29, 2014, plaintiff filed letters in the  
7 case. The letters were largely incomprehensible, but neither appeared to have any direct  
8 connection with the settlement or the order of dismissal. Id., Docs. 46, 47. In a third  
9 letter, also filed on January 29, 2014, entitled "Factors to be Considered by the Court  
10 Before Entering Judgment," plaintiff asserted that "[t]he five hundred dollar settlement  
11 allowed plaintiff was a signature of gross negligence while defendant was not prepared  
12 for the case." Id., Doc. 48. While this letter overall was largely incomprehensible, it  
13 appears that plaintiff may have been attempting to make some argument regarding the  
14 settlement, almost eleven months after the date set by the court for the parties to request  
15 that the order of dismissal be vacated.

16 On August 29, 2013, plaintiff filed what appeared to be a prisoner civil rights suit in  
17 this court, challenging the "legitimacy [sic] of actual banking institution" of Wells Fargo  
18 Bank located inside the "Kroger Grocery on East Leland in Pittsburg California." Martin v.  
19 Wells Fargo Bank (C-13-4022 HRL), Doc. 1. This case was randomly assigned to Judge  
20 Lloyd. The complaint mentioned "November 14" (possibly a reference to the dates of the  
21 settlement conference in C-12-0244 MEJ), and also mentioned the "amount before the  
22 closing of the account by Wells Fargo 58,000" (possibly a reference to the amount  
23 plaintiff previously claimed had been unlawfully withdrawn from her account before it was  
24 closed by the bank). Id. However, the complaint was incomprehensible overall, and  
25 more importantly, did not assert any basis for maintaining a claim under 42 U.S.C. § 1983  
26 against Wells Fargo Bank. On November 12, 2013, the court dismissed the complaint for  
27 failure to state a claim. Id., Doc. 9. The dismissal was with leave to amend. Plaintiff  
28 failed to file an amended complaint within the 28-day deadline imposed by the court. On

1 January 6, 2014, the court dismissed the complaint without prejudice, and entered  
2 judgment. Id., Docs. 11, 12.

3 On January 6, 2014, plaintiff filed yet another suit in this court, alleging that Wells  
4 Fargo had paid only \$500 for the settlement of Case No. C-0244 MEJ, which amount was  
5 inadequate to compensate plaintiff for her losses, and requesting the court to “re-open  
6 the case.” Martin v. Wells Fargo Bank (N.D. Cal. C-14-0081 MEJ), Doc. 1. This case  
7 was randomly assigned to Judge James. On January 15, 2014, the court issued an order  
8 dismissing the case, finding that it lacked jurisdiction to enforce the settlement  
9 agreement, and dismissing the case without prejudice to re-filing in state court. Id., Doc.  
10 6. On January 15, 2014, and January 29, 2014, plaintiff filed two letters similar to (or  
11 identical to) letters she had filed in Case No. C-12-0224 MEJ after that case was  
12 dismissed. See id., Docs. 9, 10. On February 3, 2014, the court issued an order in which  
13 it noted that plaintiff appeared to be seeking to appeal the dismissal, and also to  
14 subpoena documents. Id., Doc. 11. The court noted that any appeal must be taken to  
15 the Ninth Circuit, and that any request to subpoena documents was moot in light of the  
16 dismissals of both cases. Id.

17 On May 11, 2015, plaintiff filed a “Request and Authorization for Expert Services”  
18 in Case No. 12-0244, in which she purported to seek compensation in the amount of  
19 \$70,800, apparently for costs incurred in the lawsuit. Martin v. Wells Fargo Bank (N.D.  
20 Cal., C-12-0244), Doc. 50. On May 11, 2015, the court issued an order denying plaintiff’s  
21 request for reimbursement, noting that the case had been dismissed in February 2013  
22 pursuant to the parties’ settlement agreement, and that the court had not retained  
23 jurisdiction over the case, including any dispute regarding the settlement agreement or  
24 any other aspect of the case. Id., Doc. 51. The court instructed the Clerk of the Court to  
25 accept no further filings from plaintiff in the case, and to return any documents plaintiff  
26 submitted for filing. Id. On May 18, 2015, plaintiff filed a notice of appeal of the May 11,  
27 2015 order. Id., Doc. 52. Thus, plaintiff has filed five cases – three in this court – based  
28 on what appear to be the same facts involving the Wells Fargo Bank account.

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On June 1, 2015, plaintiff filed the present action against Judge James in connection with Case No. C-12-0244 MEJ, one of the cases previously filed against Wells Fargo in this district, which settled in November 2012. For the reasons stated above, Judge James is absolutely immune from civil liability for acts performed in her judicial capacity. Thus, the present action is DISMISSED WITH PREJUDICE.

In addition, the court notes that in light of the parties' settlement of plaintiff's claims against Wells Fargo Bank in C-12-0244 MEJ, plaintiff will be precluded from further pursuit of any claim against Wells Fargo regarding the bank account described above. Had the present action named Wells Fargo as a defendant, the court would have issued a pre-filing order, but cannot do so in this case as the sole named defendant is Judge James.

**IT IS SO ORDERED.**

Dated: June 10, 2015



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PHYLLIS J. HAMILTON  
United States District Judge