

E-Filed 12/7/2009

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

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12 YONG TAN HUANG,
13 Plaintiff,
14 v.
15 TIM BELL and GALE BELL,
16 Defendants.

Case Number C 09-5099 JF (PVT)
ORDER¹ DENYING APPLICATION
TO PROCEED *IN FORMA PAUPERIS*;
DISMISSING COMPLAINT WITH
LEAVE TO AMEND; AND SETTING
DEADLINE FOR PAYMENT OF
FILING FEE
[re: document no. 2]

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20 On October 26, 2009, Plaintiff filed the instant complaint, alleging misconduct by a
21 number of non-party judges of the Superior and Appellate Courts of California, but failing to
22 allege any misconduct by the two named defendants, Tim and Gale Bell.

23 Pursuant to 28 U.S.C. § 1915, a district court may authorize the commencement of a civil
24 action *in forma pauperis* if the court is satisfied that the would-be plaintiff cannot pay the filing
25 fees necessary to pursue the action. 28 U.S.C. § 1915(a)(1). The court may deny *in forma*
26 *pauperis* status, however, if it appears from the face of the proposed complaint that the action is

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28 ¹ This disposition is not designated for publication and may not be cited.

1 frivolous or without merit. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990); *Tripati v.*
2 *First National Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987).

3 As presently drafted, the complaint appears to be without merit in that it fails to set forth
4 a cognizable claim against either of the two named defendants. Accordingly, Plaintiff's request
5 to proceed *in forma pauperis* will be DENIED, and the complaint will be DISMISSED WITH
6 LEAVE TO AMEND. If Plaintiff does not file an amended complaint AND pay the filing fee
7 within thirty (30) days of receiving this order, the Court will dismiss the action without
8 prejudice.²

9 IT IS SO ORDERED.

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14 DATED: December 7, 2009

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17 JEREMY FOGEL
18 United States District Judge

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² The Court declines to adopt the report and recommendation of Magistrate Judge Trumbull that the action be dismissed without leave to amend at this time.

1 Copies of this Order were served upon the following persons:

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3 Yong Tan Huang
4 345 N. 5th Street
5 San Jose, CA 95112

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