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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ISAAC BERHE, et. al.,

CASE NO. 5:13-cv-00230 EJD

Plaintiff(s),

**ORDER RE: APPLICATION TO
PROCEED IN FORMA PAUPERIS**

v.

BANK OF AMERICA,

[Docket Item No(s). 2]

Defendant(s).

Pro se plaintiffs Isaac Berhe (“Berhe”) and Aschilew Jember (“Jember”) commenced the above-entitled action on January 17, 2013. See Docket Item No. 1. Presently before the court is Jember’s application to proceed *in forma pauperis* which was filed with the Complaint. See Docket Item No. 2.

Pursuant to 28 U.S.C. § 1915(a)(1), the court “may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] prisoner possesses that the person is unable to pay such fees or give security therefor.” District courts have broad discretion to grant or deny a motion to proceed *in forma pauperis* in a civil action. O’Loughlin v. Doe, 920 F.2d 614, 616-17 (9th Cir. 1990). Indeed, “[t]he right to proceed *in forma pauperis* is not an unqualified one.” Jefferson v. United States, 277 F.2d 723, 725 (9th Cir. 1960). “It is a privilege, rather than a right.” Id.

The court has reviewed Jember’s application for *in forma pauperis* status but finds it

1 incomplete because it does not disclose or describe Berhe's financial circumstances. Indeed, while
2 both Jember and Berhe are referenced as plaintiffs at the top of the application, only Jember
3 completed the required declaration. But in order for the court to properly determine whether this
4 case should proceed without the payment of fees, financial information for both Jember and Berhe
5 must be presented which demonstrates an inability to pay pursuant to § 1915(a)(1). Otherwise, the
6 filing fee must be paid.

7 Accordingly, the court orders that Berhe either file a complete application to proceed *in*
8 *forma pauperis* or pay the filing fee of \$350.00 on or before **February 11, 2013**. The parties are
9 advised that Berhe's failure to submit a timely *in forma pauperis* application or failure to pay the
10 filing fee within the time provided may result in an order dismissing Berhe from this action.

11 **IT IS SO ORDERED.**

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13 Dated: January 25, 2013


EDWARD J. DAVILA
United States District Judge

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