

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ABRAHAM PORTNOV,)	Case No. 5:14-cv-02887-PSG
)	
Plaintiff,)	ORDER GRANTING APPLICATION
v.)	TO PROCEED IN FORMA PAUPERIS
)	
CARNIVAL CORPORATION,)	(Re: Docket Nos. 5 and 6)
)	
Defendant.)	

Pending on the court’s docket is a letter filing from Plaintiff Abraham Portnov that spells out the challenges he has faced to date in prosecuting his claim against Defendant Carnival Corporation. To Portnov’s credit, he provides a more fulsome explanation of the financial challenges he faces. Even though the court is inclined to grant what it generously construes to be a motion for leave to file a motion for reconsideration of its prior decision on Portnov’s financial qualification to proceed in forma pauperis,¹ the court must also, at a minimum, be persuaded that this court possesses both subject matter and personal jurisdiction over Portnov’s tort-based claims and not determine that the complaint is frivolous.²

¹ See Docket No. 5.

² See 28 U.S.C. § 1915.

1 First, to get into federal court, Portnov must establish diversity jurisdiction. Here,
2 Portnov's complaint includes a prayer for relief to the tune of "\$370,000 compensation for getting
3 [severe] stress with the consequences."³ "In diversity cases, where the amount in controversy is in
4 doubt, the Supreme Court has drawn a sharp distinction between original jurisdiction and removal
5 jurisdiction: in cases brought in the federal court it must appear to a legal certainty that the
6 plaintiff's claim is really for less than the jurisdictional amount to justify dismissal."⁴ Because the
7 court cannot say "to a legal certainty" that Portnov's claim "is really for less than the jurisdictional
8 amount," diversity jurisdiction may well lie and dismissal on this basis is not warranted.

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10 Second up is the question of personal jurisdiction. On this issue, the complaint is silent.⁵
11 The court is aware that Carnival operates internationally. A review of Carnival's website suggests
12 that at least some of its ships depart from Los Angeles, CA. With Carnival apparently operating its
13 business within California, Portnov has a colorable argument that this court can assert personal
14 jurisdiction over the Defendant.

15 While it has serious doubts, the court cannot yet conclude that Portnov's complaint is
16 frivolous.⁶ In light of Portnov's pro se status, the court will permit Portnov to proceed in forma
17 pauperis.

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19 **IT IS SO ORDERED.**

20 Dated: August 1, 2014

21 
22 PAUL S. GREWAL
23 United States Magistrate Judge

24 ³ Docket No. 1 at 1.

25 ⁴ *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (quoting *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288-290 (1938)) (internal quotations omitted).

26 ⁵ The court observes that Portnov's complaint suggests that Carnival may have a mailing address in
27 Miami.

28 ⁶ Absent a more structured pleading, the court is unable to substantively evaluate Portnov's liability theories. The court nevertheless is not yet persuaded that Portnov's suit is frivolous.