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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ELIZABETH E. de BEAUVOIR’S, and  
GERARD L. de BEAUVOIR’S,  
  
Plaintiffs,  
  
vs.  
  
ADVANTA BANK CORP. a/k/a  
ADVANTA CREDIT CARDS,  
  
Defendant.

CASE NO. 07CV1972 WQH (POR)  
  
ORDER DENYING MOTION TO  
PROCEED IN FORMA PAUPERIS

HAYES, Judge:

Pending before the Court is Plaintiffs’ motion to proceed in forma pauperis. (Doc. # 2).

**DISCUSSION & ORDER**

All parties instituting a civil action, suit, or proceeding in a district court of the United States, other than a petition for writ of habeas corpus, must pay a filing fee of \$350.00. 28 U.S.C. § 1914(a). An action may proceed despite a party’s failure to pay the filing fee only if the party is granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). “To proceed in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

In their accompanying affidavit, Plaintiffs state that they are not employed but together receive approximately \$1,260.00 per month. Plaintiffs also indicate a checking or savings account balance of \$236.00, and ownership of two vehicles, a 2000 Kia Sportage Van worth \$6,000.00, and a 1987

1 Nissan pickup truck worth \$1,000. Plaintiffs note that their daughter helps pay the monthly bills,  
2 however, Plaintiffs do not specify what amount their daughter contributes. Plaintiffs' affidavit  
3 indicates that they pay monthly bills of approximately \$1,162.93, including Direct Tv and cell phone  
4 bills of over \$50 each.


5 After reviewing Plaintiffs' motion to proceed in forma pauperis and the accompanying  
6 affidavit, the Court concludes that Plaintiffs are not entitled to proceed in forma pauperis at this time.  
7 The Court cannot determine whether both, or only one, of the Plaintiffs are unemployed, and whether  
8 it is true that one of the Plaintiffs does not receive any income at all from any source. The Court also  
9 cannot determine how much Plaintiffs' daughter contributes on a monthly basis, though it is evident  
10 that Plaintiffs' daughter does contribute something. Finally, it appears that Plaintiffs have some assets  
11 which would enable them to pay the \$350.00 filing fee, particularly in light of contributions from  
12 Plaintiffs' daughter.

13 Plaintiffs' motion to proceed *in forma pauperis* (Doc. # 2) is DENIED without prejudice.  
14 Plaintiff shall, on or before Monday, November 19, 2007, either (1) pay the requisite \$350.00 filing  
15 fee, or (2) submit a more detailed and comprehensive motion to proceed in forma pauperis describing  
16 each of Plaintiffs' finances individually. If Plaintiffs fail to submit payment or an amended motion  
17 to proceed in forma pauperis on or before November 19, 2007, the Court will close this case.

18 The Clerk of the Court is ordered to provide two blank motion to proceed in forma pauperis  
19 forms to Plaintiffs along with this Order.

20 **IT IS SO ORDERED.**

21 DATED: October 16, 2007

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23 **WILLIAM Q. HAYES**  
24 United States District Judge

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