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

WILLIAM H. CARTER,

Plaintiff,

vs.

COUNTRY WIDE MORTGAGE,

Defendant.

CASE NO. 07CV2334 WQH (WMC)

ORDER DENYING MOTION TO
PROCEED IN FORMA PAUPERIS

HAYES, Judge:

Pending before the Court is Plaintiff's motion to proceed in forma pauperis. (Doc. # 2).

DISCUSSION & ORDER

On December 13, 2007, Plaintiff William H. Carter filed a Complaint against Defendant Countrywide Home Mortgage. (Doc. # 1). Plaintiff also filed the presently pending motion to proceed in forma pauperis. (Doc. # 2).

I. Motion to Proceed In Forma Pauperis

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 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).


1 In his accompanying affidavit, Plaintiff states that he is not employed, and has not been
2 employed since June of 2003. Plaintiff currently receives \$1,650.00 per/month in benefits from the
3 City of San Diego and the San Diego Unified School District, and has \$300.00 in two separate bank
4 accounts. In addition, Plaintiff owns a 1992 LEXUS automobile. Plaintiff supports himself and one
5 other person, and has \$35,000 in student loan and credit card debt. Plaintiff's affidavit does not detail
6 Plaintiff's monthly expenses.

7 After considering Plaintiff's motion and the accompanying affidavit, the Court determines that
8 Plaintiff can afford to pay the filing fee in this case. Plaintiff has sufficient monthly income and assets
9 to pay the required \$350.00, and therefore Plaintiff is not eligible to proceed in forma pauperis
10 pursuant to 28 U.S.C. § 1915(a).

11 Plaintiff's motion to proceed in forma pauperis (Doc. # 2) is DENIED without prejudice.
12 Plaintiff shall, on or before Friday, January 18, 2008, either (1) pay the requisite \$350.00 filing fee,
13 or (2) submit a more detailed and comprehensive motion to proceed in forma pauperis. If Plaintiff
14 fails to submit payment or an amended motion to proceed in forma pauperis on or before January 18,
15 2008, the Court will close this case.

16 **IT IS SO ORDERED.**

17 DATED: December 18, 2007

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19 **WILLIAM Q. HAYES**
20 United States District Judge

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