

1 On November 16, 2010, Plaintiff Lisa filed a first amended complaint [Doc. No. 6] and a
2 renewed motion for leave to proceed IFP [Doc. No. 7]. Lisa's daughter Elise is not named as a
3 plaintiff in the amended complaint.

4 **REQUEST TO PROCEED IN FORMA PAUPERIS**

5 All parties instituting any civil action, suit or proceeding in a district court of the United
6 States, except an application for writ of habeas corpus, must pay a filing fee of \$350. *See* 28
7 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only
8 if the plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). *See*
9 *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To proceed in forma pauperis is a
10 privilege not a right." *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

11 In Plaintiff Lisa's renewed IFP affidavit, she again states that she is unemployed and
12 currently receives social security benefits in the amount of \$929 per month. [Doc. No. 7.] Lisa
13 asserts she does not have any assets or other sources of income, and identifies the following debt
14 obligations: "a 1996 student loan"; \$560 per month for rent; and \$75 per month for storage. [*Id.*]

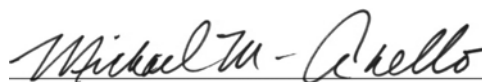
15 A party need not be completely destitute to proceed in forma pauperis. *Adkins v. E.I.*
16 *DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948). But "the same even-handed care must
17 be employed to assure that federal funds are not squandered to underwrite, at public expense,
18 either frivolous claims or the remonstrances of a suitor who is financially able, in whole or in
19 material part, to pull his own oar." *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984).
20 The affidavit submitted by Lisa in support of her motion to proceed IFP does not demonstrate that
21 she lacks the financial resources or assets to pay the cost of commencing this action.

22 As indicated above, Lisa states in her affidavit that she receives \$929 per month in social
23 security benefits, and identifies monthly payment obligations totaling \$635. Although Plaintiff
24 appears to have limited financial resources, the information provided in the IFP indicates she has a
25 surplus of approximately \$300 per month in funds that could be available to pay the required filing
26 fee. Accordingly, based on the information contained in Plaintiff's IFP, the Court finds that
27 Plaintiff is not indigent within the meaning of the IFP statute and **DENIES** her request to proceed
28 IFP without prejudice.

1 If Plaintiff wishes to proceed with this action, she must pay the required \$350 filing fee or
2 submit an amended motion to proceed IFP that accurately identifies all of her monthly financial
3 obligations and demonstrates that she lacks the resources to pay the cost of commencing this
4 action, no later than ***January 10, 2011***. If Plaintiff does not pay the required filing fee or submit
5 an amended motion to proceed IFP by the above date, her case will be subject to dismissal.

6 **IT IS SO ORDERED.**

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8 DATED: December 6, 2010

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10 Hon. Michael M. Anello
11 United States District Judge

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