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8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
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11	RIN LAY and HUONG NGUYEN,	CASE NO. 11-CV-1127 MMA (MDD)
12 13	Plaintiffs, vs.	ORDER DENYING PLAINTIFFS' MOTION TO PROCEED IN FORMA PAUPERIS
14	MICHAEL S. ASTRUE, Commissioner of Social Security,	[Doc. No. 2]
15	Defendant.	
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17	On April 21, 2011, Plaintills Rin Lay and Huong Nguyen filed a Complaint against	
18	Defendant Michael S. Astrue, Commissioner of Social Security. [Doc. No. 1.] Plaintiff Rin Lay	
19	has submitted a Motion for Leave to Proceed in forma pauperis ("IFP"). [Doc. No. 2.]	
20	All parties instituting any civil action, suit or proceeding in a district court of the United	
21	States, except an application for writ of habeas corpus, must pay a filing fee of \$350. See 28	
22	U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only	
23	if the plaintiff is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). See Andrews v.	
24	Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007).	
25	To proceed in forma paupens is a privilege not a right. Smart v. Heinze, 547 F.20 114,	
26	116 (9th Cir. 1965). Although only one filing fee is required per case, where there are multiple	
27	plainting and only one plaintin seeks to proceed IFP, a court may consider the availability of	
28	funds from the other plaintiffs in determining whether to grant IFP status. See Nur v. Blake	
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Development Corp., 664 F. Supp. 430, 431 (N.D. Ind. 1987).

2 Plaintiff Lay attests he receives income from social security benefits, has a checking 3 account with a present balance of sixty dollars, and owns no other property. However, named 4 Plaintiff Nguyen has not submitted an affidavit of assets. The Court does not have sufficient 5 information to determine whether Plaintiff Nguyen has the available funds to pay the filing fee in 6 this action. Although parties need not be completely destitute to proceed IFP, a court must employ 7 "the same even-handed care . . . to assure that federal funds are not squandered to underwrite, at 8 public expense . . . the remonstrances of a suitor who is financially able, in whole or in material 9 part, to pull his own oar." Temple v. Ellerthorpe, 586 F. Supp. 848, 850 (D.R.I.1984). 10 Therefore, the Court **DENIES** without prejudice Plaintiffs' motion to proceed IFP. To 11 proceed with this action, Plaintiffs must either pay the \$350 filing fee, or submit a renewed motion 12 to proceed IFP along with affidavits from both plaintiffs, on or before June 9, 2011. 13 **IT IS SO ORDERED.** 14 Michael Tu- Cello 15 DATED: May 26, 2011 16 Hon. Michael M. Anello United States District Judge 17 18 19 20 21 22 23 24 25 26 27 28