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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STEVEN H. LUCORE, SR., JUDY L.
12 LUCORE,

13 Plaintiffs,

14 v.

15 MICHAEL D. ZEFF, AN INDIVIDUAL;
16 ROSENTHAL, WITHEM & ZEFF; AND
DOES 1-10, INCLUSIVE,

17 Defendants.
18

Case No.: 15-CV-910 JLS (MDD)

**ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS**

(ECF No. 95)

19 Presently before the Court is Plaintiffs Steven H. Lucore, Sr. and Judy L. Lucore's
20 Application to Proceed *In Forma Pauperis*, (ECF No 95). Plaintiffs previously paid the
21 district court filing fee, (*see* ECF No. 1), but now seek to appeal final judgment in their
22 case without prepaying the appellate filing fee.

23 Federal Rule of Appellate Procedure 24 states that a petitioner may "proceed on
24 appeal in forma pauperis without further authorization," unless the district court "certifies
25 that the appeal is not taken in good faith or finds that the party is not otherwise entitled to
26 proceed in forma pauperis," or a statute provides otherwise. Fed. R. App. P. 24(a)(3). The
27 Ninth Circuit has construed "not taken in good faith" to mean frivolous. *See Hooker v.*
28 *Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (stating that "[i]f at least one issue or

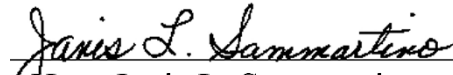
1 claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be
2 granted for the case as a whole”). An issue is “frivolous” if it has “no arguable basis in
3 fact or law.” *See O’Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990) (internal citation
4 and quotation omitted).

5 Here, Plaintiffs submit an application stating that Mr. Lucore is currently
6 unemployed and has no other income beyond \$300 a month provided his son. (ECF No.
7 94, at 1.) He further states that he is currently disabled, is in the process of applying for
8 social security, and on Medi-Cal. (*Id.*) Mr. Lucore’s wife is dependent on him and they
9 have monthly expenses of at least \$875. (*See id.* at 2.)

10 The Court finds that an appeal would not be frivolous and that Plaintiffs meet the
11 requirements to proceed *in forma pauperis*. Accordingly, the Court **GRANTS** Plaintiffs’
12 motion, (ECF No. 95).

13 **IT IS SO ORDERED.**

14 Dated: August 7, 2018


Hon. Janis L. Sammartino
United States District Judge