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

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10 MONTOREY LLC, MONTOREY  
DANYELL HARPER,

11 Plaintiffs,

12 v.

13 UNITED STATES, UN, NATO,

14 Defendants.  
15

Case No.: 17cv1636-MMA (MDD)

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

[Doc. No. 2]

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17 On August 14, 2017, Plaintiffs Montorey LLC and Montorey Danyell Harper filed  
18 this action against the United States, UN, and NATO. Plaintiff Montorey Harper  
19 simultaneously filed a motion to proceed *in forma pauperis* (“IFP”). Doc. No. 2.

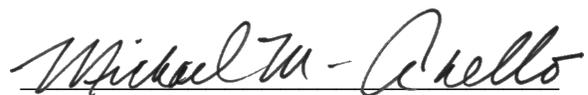
20 All parties instituting any civil action, suit or proceeding in a district court of the  
21 United States, except an application for writ of habeas corpus, must pay a filing fee of  
22 \$400. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to  
23 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C. §  
24 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). “To proceed *in*  
25 *forma pauperis* is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir.  
26 1965). A party need not be completely destitute to proceed *in forma pauperis*. *Adkins v.*  
27 *E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948). But “the same even-  
28 handed care must be employed to assure that federal funds are not squandered to

1 underwrite, at public expense, either frivolous claims or the remonstrances of a suitor  
2 who is financially able, in whole or in material part, to pull his own oar.” *Temple v.*  
3 *Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984). Further, although only one filing fee is  
4 required per case, where there are multiple plaintiffs, a court may consider the  
5 availability of funds from each of the plaintiffs in determining whether to grant IFP  
6 status. *See Nur v. Blake Development Corp.*, 664 F. Supp. 430, 431 (N.D. Ind. 1987).

7 Plaintiff Montorey Harper states that has a monthly income of \$4,231.00 per  
8 month—\$2,915.00 in disability payments, and \$1,316.00 in other funds. He also avers  
9 that he has \$220.00 in cash and \$80.88 in bank accounts. Plaintiff states that his monthly  
10 expenses amount to \$3,100.00, meaning that his net income amounts to more than  
11 \$1,000.00 per month. Accordingly, the Court finds Plaintiff is able to pay the \$400 filing  
12 fee in order to institute this action. Thus, the Court **DENIES** without prejudice Plaintiff’s  
13 motion to proceed IFP. Doc. No. 2; *see* Civ. L.R. 3.2. Within **fourteen days** of the date  
14 of this Order, Plaintiff shall either: (a) pay the requisite \$400 filing fee, or (b) file a  
15 renewed motion for IFP containing the requisite information regarding his ability to pay  
16 the costs of commencing this action. If Plaintiff fails to timely submit payment or a  
17 renewed motion for IFP, this case shall be dismissed.

18 **IT IS SO ORDERED.**

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20 Date: August 23, 2017



21 Hon. Michael M. Anello  
22 United States District Judge  
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