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

DISABLED MILITARY VETERAN
STUDENTS OF CHULA VISTA
ADULT SCHOOL,

Plaintiff,

v.

CHULA VISTA ADULT SCHOOL, et
al.,

Defendants.

Case No.: 17cv2477-MMA (BGS)
**ORDER DENYING MOTION TO
PROCEED IN FORMA PAUPERIS**

[Doc. No. 2]

On December 11, 2017, Plaintiff Disabled Military Veteran Students of Chula Vista Adult School (“Plaintiff”) filed this action against Chula Vista Adult School, Wesley Braddock, Athena Matos, Ryan Burke, and Kevin Patrick, alleging violations of “Code of Federal Regulations Section 21.45253(d)(1) and section 21.4254(b).” Doc. No. 1 at 3. Plaintiff seeks a “TEMPORARY INJUNCTION of enrollment for Veteran Students of [Chula Vista Adult School] for FALL 2018 from December 13 to January 1, 2018 until all parties are heard and court decisions are made.” *Id.* at 6 (emphasis in original). Plaintiff simultaneously filed a motion to proceed *in forma pauperis* (“IFP”). *See* Doc. No. 2.

All parties instituting any civil action, suit or proceeding in a district court of the

1 United States, except an application for writ of habeas corpus, must pay a filing fee of
2 \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a plaintiff’s failure to
3 prepay the entire fee only if she is granted leave to proceed IFP pursuant to 28 U.S.C. §
4 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). “To proceed in
5 forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir.
6 1965). A party need not be completely destitute to proceed in forma pauperis. *Adkins v.*
7 *E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948). But “the same even-
8 handed care must be employed to assure that federal funds are not squandered to
9 underwrite, at public expense, either frivolous claims or the remonstrances of a suitor
10 who is financially able, in whole or in material part, to pull his own oar.” *Temple v.*
11 *Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984).

12 As an initial matter, Plaintiff is not an individual; rather, the Complaint indicates
13 that Plaintiff Disabled Military Veteran Students of Chula Vista Adult School is
14 incorporated under the laws of California, and has its principal place of business in Chula
15 Vista.² Doc. No. 1 at 3. Plaintiff’s status as a corporation, and its subsequent request to
16 proceed IFP, is problematic for two reasons. First, the statute authorizing the
17 commencement of an action without the prepayment of fees, 28 U.S.C. § 1915, extends
18 only to individuals, and not to artificial entities. *See Rowland v. Cal. Men’s Colony*, 506
19 U.S. 194, 201-02 (1993) (“It has been the law for the better part of two centuries . . . that
20 a corporation may appear in the federal courts only through licensed counsel.”); *United*
21 *States v. High Country Broad. Co.*, 3 F.3d 1244, 1245 (9th Cir. 1993) (“A corporation
22 may appear in federal court only through licensed counsel.”). Because Plaintiff is a
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25 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of
26 \$50. *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court. Misc. Fee
27 Schedule, § 14 (eff. Dec. 1, 2016)). The additional \$50 administrative fee does not apply to persons
28 granted leave to proceed IFP. *Id.*

² It is unclear whether Plaintiff is in fact a corporation. A search on the California Secretary of
State’s website for the corporation yielded no results. *See* <https://businesssearch.sos.ca.gov/>.

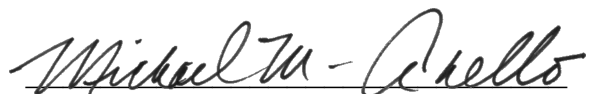
1 corporation, it is not permitted to proceed IFP.

2 Second, Mr. Benjamin Tacderas, an individual, filled out the instant application to
3 proceed IFP, using figures based upon his personal finances. *See* Doc. No. 2. It is
4 unclear whether Mr. Tacderas intends to represent the corporation. Although “parties
5 may plead and conduct their own cases personally,” *see* 28 U.S.C. § 1654, “the right to
6 proceed pro se in civil cases is a personal right” and a person appearing pro se cannot
7 represent others because doing so constitutes the unauthorized practice of law. *C.E. Pope*
8 *Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987); *see also Eagle Assocs.*
9 *v. Bank of Montreal*, 926 F.2d 1305, 1309 (2d Cir. 1991) (“Corporations and partnerships
10 . . . are unable to represent themselves and the consistent interpretation of § 1654 is that
11 the only proper representative of a corporation or partnership is a licensed attorney, not
12 an unlicensed layman regardless of how close his association with the partnership or
13 corporation.”). Thus, to the extent Mr. Tacderas intends to represent the corporation, he
14 is prohibited from doing so, unless he is a licensed attorney.

15 Accordingly, the Court **DENIES** Plaintiff’s request to proceed IFP and
16 **DISMISSES** the case **without prejudice**. To have the case reopened, Plaintiff must, no
17 later than **January 12, 2018**, either: (a) procure licensed legal representation and pay the
18 \$400 filing fee; or (b) file a complaint as an individual and file a renewed motion for IFP.
19 Plaintiff’s motion for a TRO contained in the body of the Complaint is terminated as
20 **MOOT**. Any future request for injunctive relief must be made as a separate motion in
21 accordance with the Undersigned’s Civil Chambers Rules.

22
23 **IT IS SO ORDERED.**

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25 Dated: December 12, 2017

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27 HON. MICHAEL M. ANELLO
28 United States District Judge