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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ALICIA MERCADO, et al.,
12 Plaintiffs,
13 v.
14 NATIONAL LABOR RELATIONS
15 BOARD, et al.,
16 Defendants.

Case No.: 3:18-cv-00324-GPC-KSC

**ORDER (1) DENYING WITHOUT
PREJUDICE MOTION TO
PROCEED IN FORMA PAUPERIS
[ECF No. 5];**

**(2) DISMISSING WITHOUT
PREJUDICE THE AMENDED
COMPLAINT;**

**(3) DENYING WITHOUT
PRJEUJICE MOTION TO APPOINT
COUNSEL [ECF No. 3]; and**

**(4) DENYING AS MOOT MOTION
TO DISMISS [ECF No. 6]**

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24 Plaintiffs filed this case without paying the filing fee. (*See* ECF No. 1.) The same
25 day the case was filed, Plaintiff Mercado filed a motion to proceed in forma pauperis
26 (ECF No. 2) and a motion to appoint counsel (ECF No. 3). One of the many defendants
27 in this case has filed a motion to dismiss. (ECF No. 6.)

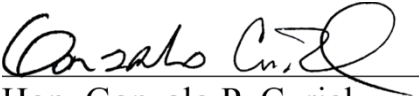
28 All parties instituting any non-habeas “civil action, suit, or proceeding” in a federal

1 district court must pay a filing fee of \$400. *See* 28 U.S.C. § 1914(a).¹ An action may
2 proceed despite a plaintiff’s failure to prepay the entire fee only if the plaintiff is granted
3 leave to proceed IFP under § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051
4 (9th Cir. 2007). The plaintiff must submit an affidavit demonstrating her inability to pay
5 the filing fee and including a complete statement of the plaintiff’s assets. 28 U.S.C.
6 § 1915(a)(1). When a plaintiff moves to proceed IFP, the court first “grants or denies IFP
7 status based on the plaintiff’s financial resources alone and then independently
8 determines whether to dismiss the complaint” pursuant to 28 U.S.C. § 1915(e)(2).
9 *Franklin v. Murphy*, 745 F.2d 1221, 1226 n.5 (9th Cir. 1984).

10 In the motion to proceed in forma pauperis, Plaintiff Mercado indicates that she is
11 employed by the Oceanside Unified School District. (ECF No. 2 at 2.) She does not,
12 however, indicate her gross monthly pay from that employment. (*Id.*) Without knowing
13 Plaintiff Mercado’s income amount, the Court cannot assess whether she can afford to
14 pay the filing fee. The motion to proceed IFP is therefore DENIED WITHOUT
15 PREJUDICE. Because no filing fee has been paid, and because no other plaintiff has
16 filed a motion to proceed IFP, the operative amended complaint is DISMISSED
17 WITHOUT PREJUDICE. The motion to appoint counsel is DISMISSED WITHOUT
18 PREJUDICE. The motion to dismiss is DENIED AS MOOT.

19 **IT IS SO ORDERED.**

20 Dated: May 24, 2018

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22 Hon. Gonzalo P. Curiel
23 United States District Judge
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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50.
28 *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14
(eff. Dec. 1, 2016)). The additional \$50 administrative fee does not apply to persons granted leave to
proceed IFP. *Id.*