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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 DEBRA BELL,

12 Plaintiff,

13 v.

14 BANK OF AMERICA, N.A.,

15 Defendant.

Case No.: 18-CV-2865-CAB-BLM

**ORDER DENYING APPLICATION  
FOR LEAVE TO PROCEED IN  
FORMA PAUPERIS**

[Doc. No. 2]

16  
17 On December 21, 2018, Plaintiff, a non-prisoner, filed a complaint making  
18 allegations concerning the title on a property located in San Diego, California. Plaintiff  
19 did not pay the filing fee and instead applied to proceed in forma pauperis (“IFP”). For  
20 the following reasons, the application to proceed IFP is denied.

21 Generally, all parties instituting a civil action in this court must pay a filing fee. See  
22 28 U.S.C. § 1914(a); CivLR 4.5(a). However, pursuant to 28 U.S.C. § 1915(a), the court  
23 may authorize the commencement, prosecution or defense of any suit without payment of  
24 fees if the plaintiff submits an affidavit, including a statement of all his or her assets,  
25 showing that he or she is unable to pay filing fees or costs. “An affidavit in support of an  
26 IFP application is sufficient where it alleges that the affiant cannot pay the court costs and  
27 still afford the necessities of life.” *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir.  
28 2015). “[A] plaintiff seeking IFP status must allege poverty with some particularity,

1 definiteness and certainty.” Id. (internal quotation marks omitted). The granting or denial  
2 of leave to proceed IFP in civil cases is within the sound discretion of the district court.  
3 *Venerable v. Meyers*, 500 F.2d 1215, 1216 (9th Cir. 1974) (citations omitted).

4 In her application, Plaintiff states that she has no income, but also no debts or  
5 financial obligations, and lists no assets other than \$40 in a bank account. Yet, Plaintiff  
6 states she has expenses averaging \$1,900 per month. Missing from the application is any  
7 indication what Plaintiff’s monthly expenses cover, and how she pays for these expenses  
8 in the absence of income or assets.

9 Based on the lack of “particularity, definiteness and certainty” in the information  
10 provided, the court is not persuaded that Plaintiff lacks the funds to pay the filing fee and  
11 “still afford the necessities of life.” *Escobedo*, 787 F.3d at 1234. Accordingly, Plaintiff’s  
12 application to proceed IFP is **DENIED** without prejudice.

13 Plaintiff shall have until **January 22, 2019**, to pay the entire filing fee or file a  
14 renewed application to proceed IFP using the form attached hereto. Failure to pay the filing  
15 fee or file a renewed application to proceed IFP will result in this case being closed without  
16 further order from the court.<sup>1</sup>

17 It is **SO ORDERED**.

18 Dated: December 21, 2018



19 \_\_\_\_\_  
20 Hon. Cathy Ann Bencivengo  
21 United States District Judge  
22  
23  
24  
25

26 \_\_\_\_\_  
27 <sup>1</sup> The Court notes that the complaint is largely unintelligible and does not state a claim. If Plaintiff opts  
28 to pay the filing fee, she would be well-served to file an amended complaint that alleges in more detail the  
facts that demonstrate Defendants’ liability and states the statutory or common law grounds for relief.  
Otherwise, Plaintiff’s complaint is unlikely to survive a motion to dismiss by Defendants.

# UNITED STATES DISTRICT COURT

for the

_____ <i>Plaintiff/Petitioner</i>	)	
v.	)	Civil Action No.
_____ <i>Defendant/Respondent</i>	)	

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Long Form)

<p><b>Affidavit in Support of the Application</b></p> <p>I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.</p> <p>Signed: _____</p>	<p><b>Instructions</b></p> <p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: _____</p>
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- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property <i>(such as rental income)</i>	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

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Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
<b>Total monthly income:</b>	\$	<b>0.00</b>	\$	<b>0.00</b>
	\$	<b>0.00</b>	\$	<b>0.00</b>
	\$	<b>0.00</b>	\$	<b>0.00</b>
	\$	<b>0.00</b>	\$	<b>0.00</b>

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

<b>Assets owned by you or your spouse</b>	
Home ( <i>Value</i> )	\$
Other real estate ( <i>Value</i> )	\$
Motor vehicle #1 ( <i>Value</i> )	\$
Make and year:	
Model:	
Registration #:	
Motor vehicle #2 ( <i>Value</i> )	\$
Make and year:	
Model:	
Registration #:	
Other assets ( <i>Value</i> )	\$
Other assets ( <i>Value</i> )	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

<b>Person owing you or your spouse money</b>	<b>Amount owed to you</b>	<b>Amount owed to your spouse</b>
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

<b>Name</b> (or, if under 18, initials only)	<b>Relationship</b>	<b>Age</b>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$	\$
Home maintenance <i>(repairs and upkeep)</i>	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation <i>(not including motor vehicle payments)</i>	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$	\$
Installment payments		
Motor vehicle:	\$	\$
Credit card <i>(name):</i>	\$	\$
Department store <i>(name):</i>	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

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Regular expenses for operation of business, profession, or farm ( <i>attach detailed statement</i> )	\$	\$
Other ( <i>specify</i> ):	\$	\$
<b>Total monthly expenses:</b>	\$	\$
	<b>0.00</b>	<b>0.00</b>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes     No    If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit?     Yes     No

If yes, how much? \$ \_\_\_\_\_

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

12. Identify the city and state of your legal residence.

Your daytime phone number: \_\_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_