

1 \$400.¹ *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to
 2 prepay the entire fee only if she is granted leave to proceed IFP pursuant to 28 U.S.C.
 3 § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). A federal court
 4 may authorize the commencement of an action without the prepayment of fees if the party
 5 submits an affidavit, including a statement of assets, showing that she is unable to pay the
 6 required filing fee. 28 U.S.C. § 1915(a).

7 Here, Plaintiff Tina Louise Roberts filed an affidavit stating that she has a monthly
 8 income of \$1,156, based off of disability disbursements and food stamps. (IFP Mot. at 2.)
 9 The affidavit lists no other assets. (*Id.* at 3.) In juxtaposition, the affidavit indicates
 10 Plaintiff has monthly expenses totaling \$568.² The amount of money Plaintiff Roberts
 11 indicates she expects to continue to receive on a monthly basis exceeds her monthly debts
 12 and obligations by more than \$500. Additionally, Plaintiff states that she is owed \$3,000.
 13 (*Id.* at 2.)

14 Based on this information, the Court finds Plaintiffs have not shown they cannot pay
 15 the court costs and still afford the necessities of life. The amount of money Plaintiff
 16 Roberts indicates she expects to receive on a monthly basis exceeds her expected monthly
 17 debts and obligations by enough that she could pay the one-time filing fee without
 18 impacting her regular expenses.

19 Accordingly, the Court **DENIES** Plaintiffs' Motion to Proceed IFP.

20 **SUA SPONTE DISMISSAL FOR LACK OF JURISDICTION**

21 Even if Plaintiffs were granted IFP status, however, the Court would dismiss the
 22 Complaint for lack of subject matter jurisdiction. In the Complaint, Plaintiffs are asserting
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24 ¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013, must pay an
 25 additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees,
 26 District Court Misc. Fee Schedule) (eff. May 1, 2013). However, the additional \$50 administrative fee is
 waived if the plaintiff is granted leave to proceed IFP. *Id.*

27 ² The affidavit breaks down the monthly expenses as \$200 for food; \$150 for clothing; \$20 for laundry
 28 and dry-cleaning; \$18 for transportation; \$20 for recreation; \$125 for homeowner's or renter's insurance;
 and \$35 for life insurance. (IFP Mot. at 4–5.) Combined, this amounts to \$568—\$588 less than Plaintiff
 indicates in the total monthly expenses column on the affidavit.

1 personal injury and fraud claims and seek \$5,000 in damages. ECF No. 1-1.

2 Federal courts are courts of limited jurisdiction, and as such have an obligation to
3 dismiss claims for which they lack subject matter jurisdiction. *Demarest v. United States*,
4 718 F.2d 964, 965 (9th Cir. 1983). Federal courts are “obliged to inquire sua sponte
5 whenever a doubt arises as to the existence of federal jurisdiction.” *Mt. Healthy City Sch.*
6 *Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 278 (1977) (citations omitted). Federal district
7 courts “may not grant relief absent a constitutional or valid statutory grant of jurisdiction”
8 and are “presumed to lack jurisdiction in a particular case unless the contrary affirmatively
9 appears.” *A–Z Int’l v. Phillips*, 323 F.3d 1141, 1145 (9th Cir. 2003) (internal quotations
10 omitted). Congress has conferred on the district courts original jurisdiction over both
11 federal question cases and diversity cases. *Exxon Mobil Corp. v. Allapattah Serv., Inc.*,
12 545 U.S. 546, 552 (2005). Federal question cases are civil actions that arise under the
13 Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331. Diversity cases are
14 civil actions between citizens of different States; between U.S. citizens and foreign
15 citizens; or by foreign states against U.S. citizens which exceed a specific amount in
16 controversy, currently \$75,000. *Id.* § 1332.

17 Here, Plaintiffs stated the basis of jurisdiction is a U.S. Government plaintiff. *See*
18 ECF No. 1-1. It appears from the Complaint that Plaintiffs are individuals suing in their
19 individual capacity. *See generally* Compl., ECF No. 1. No U.S. Government connection
20 is alleged. *See generally id.* Plaintiffs’ fraud and personal injury claims do not raise a
21 federal question because they do not arise under the Constitution, laws, or treaties of the
22 United States. Additionally, it is unclear from the Complaint whether the parties are
23 diverse, and the amount in controversy is only \$5,000. *See* ECF No. 1-1.

24 In this case, Plaintiffs’ Complaint fails to invoke a federal question and Plaintiff has
25 not shown that diversity jurisdiction exists. Moreover, the United States is not a party to
26 this case. As a result, Plaintiffs have not presented a sufficient basis for federal jurisdiction
27 in this case. For these reasons, Plaintiffs’ Complaint is **DISMISSED** without prejudice.

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1 If Plaintiffs file a renewed IFP motion, they should also file an amended complaint clearly
2 stating the basis for this Court's jurisdiction.

3 **REQUEST FOR APPOINTMENT OF COUNSEL**

4 Plaintiff also filed a request for appointment of counsel. (ECF No. 3.) Since the
5 Court dismissed Plaintiffs' Complaint, the Court **DENIES** Plaintiffs' request for
6 appointment of counsel as **MOOT**.

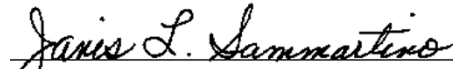
7 **CONCLUSION**

8 Accordingly, **IT IS HEREBY ORDERED** that:

- 9 1. Plaintiffs' Motion to Proceed IFP (ECF No. 2) is **DENIED**;
- 10 2. Plaintiffs' Complaint is **DISMISSED WITHOUT PREJUDICE** for lack of
11 subject matter jurisdiction;
- 12 3. Plaintiffs' Motion to Appoint Counsel (ECF No. 3) is **DENIED WITHOUT**
13 **PREJUDICE** as **MOOT**; and
- 14 4. Plaintiffs are **GRANTED** thirty (30) days from the date on which this Order
15 is electronically docketed to file an amended complaint curing the deficiencies identified
16 above.

17 **IT IS SO ORDERED.**

18 Dated: January 6, 2021

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20 Hon. Janis L. Sammartino
21 United States District Judge
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