

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

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|-------------------------------|---|------------------------------|
| HOLLY ANN E. BEST, |) | CIVIL NO. 10-00668 SOM/KSC |
| |) | |
| Plaintiff, |) | ORDER DENYING APPLICATION TO |
| |) | PROCEED WITHOUT PREPAYING |
| vs. |) | FEES OR COSTS |
| |) | |
| KAISER PERMANENTE HEALTH PLAN |) | |
| INC.; KAISER MOANALUA |) | |
| HOSPITAL, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

ORDER DENYING APPLICATION TO PROCEED
WITHOUT PREPAYING FEES OR COSTS

On January 25, 2011, Plaintiff Holly Ann E. Best filed an Application to Proceed without Prepaying Fees or Costs. That request is denied.

Any court of the United States may authorize the commencement of a suit, without payment of fees or security therefor, by a person who submits an affidavit demonstrating he or she is unable to pay such costs or give such security. 28 U.S.C. § 1915(a). This court must deny leave to proceed in forma pauperis at the outset and instead dismiss complaints when it appears from the facts alleged that the action is frivolous, that the action fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); see also

Tripati v. First Nat. Bank & Trust, 821 F.2d 1368, 1370 (9th Cir. 1987).

To proceed in forma pauperis, Best must establish that she is indeed a pauper. Best has failed to make that showing. Best indicates that she has one dependent and receives \$1,849.00 per month, or \$22,188 per year. That amount is well in excess of the 2010 federal poverty guideline for Hawaii of \$16,760 for an individual with one dependent. See 75 FR 45628-02 (Aug. 3, 2010). According to Best's application, Best owns property worth "almost \$500,000" and has a mortgage on that property of only \$92,797.27. It thus appears that Best's property has roughly \$400,000 in equity. Although Best certainly has various debts and expenses, Best's application does not demonstrate that she is a pauper and is unable to pay the cost of this proceeding or give security therefor. Accordingly, the court denies her request to proceed without prepayment of fees and costs.

No later than February 28, 2011, Best must pay the appropriate filing fee. If Best fails to do so, this action will automatically be dismissed without further order of this court.

IT IS SO ORDERED

DATED: Honolulu, Hawaii, January 31, 2011.



/s/ Susan Oki Mollway
Susan Oki Mollway
United States District Judge

Best v. Kaiser Permanente Health Plan, Inc., Civ. No. 10-00668 SOM/KSC; ORDER DENYING APPLICATION
TO PROCEED WITHOUT PREPAYING FEES OR COSTS