

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

Wendi Lee Michalk,

Plaintiff,

v.

Arthur William Michalk,

Defendant.

Case No. CV-08-459-S-BLW

**MEMORANDUM DECISION
AND ORDER**

The Court has before it Plaintiff's Petition for Order of Certification of Questions of Law (Docket No. 1).

Any party instituting any civil action, suit or proceeding in a district court of the United States, other than a writ of habeas corpus, must pay a filing fee of \$350. 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay if the party is granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

Here, Plaintiff has neither paid the filing fee nor submitted a motion to proceed in forma pauperis. In her Petition, Plaintiff asserts that the waiver of her fees and costs pursuant to state statute in a prior state court action "equates to a federal Order to Proceed In Forma Pauperis" in the current petition before this

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federal district court. However, the authorization to proceed in forma pauperis is specific to the particular case. *See* 28 U.S.C. § 1915(a)(1). In this case, Plaintiff has not moved to proceed in forma pauperis.

ORDER

IT IS HEREBY ORDERED that this action is DISMISSED without prejudice because Plaintiff failed to pay the \$350 filing fee or file a Motion to proceed in forma pauperis pursuant to 28 U.S.C. §§ 1914(a) and 1915(a).

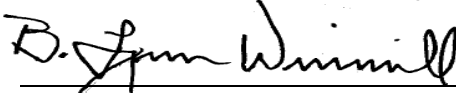
IT IS FURTHER HEREBY ORDERED that this Court GRANTS Plaintiff thirty (30) days leave from the date this Order is stamped “Filed” to: (a) prepay the entire \$350 civil filing fee in full; or (b) complete and file a Motion to proceed in forma pauperis.

If Plaintiff fails to either pay the civil filing fee or submit a motion to proceed in forma pauperis within that time, this action shall remain dismissed without prejudice and without further order of the Court.

IT IS SO ORDERED.



DATED: **February 24, 2009**


Honorable B. Lynn Winmill
Chief U. S. District Judge