

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

UNITED STATES, *ex rel*)
ORVA E. MILLER and)
WILMA P. MILLER,)
)
Plaintiffs,)
)
v.)
)
LA GRANGE COUNTY CIRCUIT)
COURT, et al.,)
)
Defendants.)

**CAUSE NO. 1:09-mc-5
1:09-cv-253**

OPINION AND ORDER

On September 3, 2009, the Plaintiffs submitted to the Court a lengthy filing which appears to be an action, although not denominated a “Complaint,” seeking damages and perhaps relief in the nature of *mandamus* from various entities, including the State of Indiana and a state court judge. Because the Plaintiffs tendered thirty-nine dollars (\$39) as a filing fee and requested that the case be filed on the miscellaneous docket, the clerk assigned the above miscellaneous cause number and assigned it to the undersigned Magistrate Judge.

A review of the filing, however, indicates that this case does not fall within any recognized miscellaneous category and is actually a civil action since it seeks damages and perhaps injunctive-type relief from various entities; accordingly, under 28 U.S.C. § 1914, a three hundred and fifty dollar (\$350) filing fee should have been submitted.

The Plaintiffs are therefore granted to and including September 24, 2009, to submit the remaining balance of three hundred and eleven dollars (\$311) to the Office of the Clerk or to request to proceed *in forma pauperis*. The Clerk is directed to assign a civil cause number to the

case and to randomly assign it to a District Judge and this Magistrate Judge.¹ All further filings are to be made under the cause number: 1:09-cv-253. The Clerk is also directed to send one copy of this order and *in forma pauperis* application to Orva E. Miller at his last known address and one copy each to Wilma P. Miller at her last known address.

In the event the Plaintiffs do not, by September 24, 2009, seek to pursue the case *in forma pauperis*, or submit the \$311 balance, the case may be summarily dismissed.

SO ORDERED.

Enter for this 10th day of September, 2009

/S/ Roger B. Cosby
Roger B. Cosby,
United States Magistrate Judge

¹As noted above, the Court has re-cast the caption so that it appears more conventionally than as styled by the Plaintiffs.