

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-13123-RGS

MANSON BROWN

v.

JOSEPH PEPE, et al.

ORDER

March 26, 2014

STEARNS, D.J.

1. The motion (#9) for leave to proceed in forma pauperis is GRANTED. Pursuant to 28 U.S.C. § 1915(b)(1), the court assesses an initial partial filing fee of \$2.39. The remainder of the fee, \$347.61, shall be collected in accordance with 28 U.S.C. § 1915(b)(2).

2. The motion to waive the filing fee (#7) is DENIED. The plaintiff relies on Owens v. Keeling, 461 F.3d 763, 772-73 (6th Cir. 2006), in support of his argument that, because his earlier action, Brown v. Pepe, 12-11687-JLT (D. Mass.), was dismissed without prejudice for failure to exhaust, a filing fee should not be assessed in this action. The Owens case is not binding on this Court. The Court agrees with the reasoning in Slaughter v. Carey, C.A. No. 03-00851, 2007 WL 1865501 (E.D. Cal. June 28, 2007) that a filing fee must be collected for each lawsuit that a prisoner institutes.

3. The clerk shall issue summonses and the United States Marshal shall serve a copy of the summonses, amended complaint, and this order upon the defendants as directed by plaintiff with all costs of service to be advanced by the United States. The plaintiff shall have 120 days from the date of this order to complete service.

4. The defendants are required to respond to the complaint. See 42 U.S.C. § 1997e(g)(2).

SO ORDERED.

/s/ Richard G. Stearns
UNITED STATES DISTRICT JUDGE