

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
FAROUK O. MARTINS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	14-11958-FDS
CHARLES COOK, et al.,)	
)	
Defendants.)	
_____)	

**ORDER ON APPLICATION TO PROCEED IN
DISTRICT COURT WITHOUT PREPAYING FEES**

SAYLOR, J.

Plaintiff Farouk Martins has filed a *pro se* complaint against his former employer, his supervisors, and their attorney. For the reasons set forth below, the Court will deny plaintiff's Application to Proceed in District Court Without Prepaying Fees without prejudice to its renewal. Because the financial information in the application is incomplete, the Court cannot make a determination whether plaintiff qualifies for *in forma pauperis* status. The Court will grant plaintiff additional time to submit a fully-completed AO 239 (long form) application. No summons shall issue at this time, pending plaintiff's compliance with this order with respect to the filing fee issues.

I. Background

On May 5, 2014, Farouk O. Martins, a resident of Cambridge, Massachusetts, filed a complaint against his former supervisors and their attorney concerning his termination from employment in 2004. The complaint was accompanied by an Application to Proceed in District Court Without Prepaying Fees (AO 240 - short form). On June 16, 2014, Martins filed a motion

seeking to add as a named defendant his former employer (the University of Massachusetts Medical School).

II. Filing Fee

A litigant filing a complaint in this court must either (1) pay the \$350 filing fee and the \$50 administrative fee, *see* 28 U.S.C. § 1914(a) (\$350 filing fee for all non-habeas civil actions), or (2) file a motion for leave to proceed without prepayment of the filing fee, *see* 28 U.S.C. § 1915 (proceedings *in forma pauperis*).

III. Discussion

Although plaintiff's application states that he is unemployed and has \$100 in cash or in a checking or savings account, he failed to provide a complete answer on the application to Question 3 (other income), Question 5 (property and its approximate value) and Question 6 (amount of monthly expenses).

As to income, plaintiff states that he receives monthly rent payments of \$1,500. However, he does not explain the source of the money and any amounts he expects to receive in the future. He also failed to respond to Questions 3(a)-(b) and 3(c)-(f). As to Question 5, concerning property ownership, plaintiff states simply that he "lease[s] a car." As to Question 6, concerning his regular monthly expenses, he does not list any housing, transportation, utilities, or loan payments or other regular monthly expenses. Thus, based on the fact that the financial disclosures are not complete, the application will be denied without prejudice.

If plaintiff wishes to proceed with this action, he shall submit the "Long Form" application. *See* AO Form 239. The new application should answer all questions completely. Plaintiff should also disclose whether he possesses any credit cards, along with the balance owed

and credit limits, so that the Court can determine whether charging the filing fee to his credit card is a viable option, in the event that he has assets that cannot be readily made liquid.

In considering an application to waive the filing fee, “a court may consider the resources that the applicant has or “can get” from those who ordinarily provide the applicant with the “necessities of life,” such as “from a spouse, parent, adult sibling or other next friend.”“ *Fridman v. The City of New York*, 195 F. Supp. 534, 537(S.D.N.Y. 2002) quoting *Williams v. Spencer*, 455 F. Supp. 205, 208-09 (D. Md. 1978) (other citations omitted). Therefore, because this Court may consider such assets in determining whether plaintiff is entitled to *in forma pauperis* status, if he seeks to renew his request, he shall provide financial disclosures of his spouse, if he is married, or any other person who would ordinarily provide him with necessities.

IV. Conclusion

For the foregoing reasons, plaintiff’s Motion to Amend is GRANTED and plaintiff’s Application to Proceed in District Court Without Prepaying Fees is DENIED without prejudice. If plaintiff wishes to proceed with this action, he shall, within 21 days of the date of this Order, either pay the \$400 filing fee or file a fully completed Application to Proceed in District Court without Prepaying Fees or Costs (the AO 239 long form). The clerk shall send plaintiff a copy of the AO 239 Long Form Application to Proceed in District Court Without Prepaying Fees or Costs. If plaintiff fails to submit a complete application or pay the filing fee, this action will be dismissed without prejudice.

So Ordered.

Dated: July 22, 2014

/s/ F. Dennis Saylor _____
F. Dennis Saylor IV
United States District Judge