

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 17-12156-RGS

JOSEPH BRACERO

v.

JOHNSON & JOHNSON and
JANSSEN RESEARCH & DEVELOPMENT LLC

ORDER

November 16, 2017

STEARNS, D.J.

For the reasons stated below, the court orders the plaintiff to supplement his prison account statement.

Joseph Bracero, who is incarcerated at the Old Colony Correctional Center, brings this action in which he alleges that the defendants failed to warn him of potential side effects of taking the medication Risperdal. He claims that, as a result of taking Risperdal, he developed gynecomastia. Bracero seeks \$50,000 in damages and surgery to correct his condition.

Bracero filed a motion for leave to proceed *in forma pauperis* with a prison account statement covering activity between August 1, 2017 through November 9, 2017.

A prisoner seeking leave to proceed without prepayment of the filing fee must file “a certified copy of the trust fund account statement . . . for the

prisoner for the *6-month period* immediately preceding the filing of the complaint . . . *obtained from the appropriate official of each prison at which the prisoner is or was confined.*” 28 U.S.C. § 1915(a)(2) (emphases added). The court then assesses, an initial partial filing fee of 20% of the average monthly deposits or the average monthly balance in the prisoner's trust account for the six-month period. *See* 28 U.S.C. § 1915(b)(1). The prisoner pays the rest of the \$350.00 filing fee over a period of time. *See* 28 U.S.C. § 1915(b)(2).

Here, Bracero provided a prison account statement that covers approximately three months. Without a prison account statement covering a six-month period, the court cannot calculate the initial partial filing fee.

Accordingly, the court orders Bracero to file a prison account statement covering the period from May 9, 2017 through July 31, 2017, even if this means requesting the statement from an institution in which he is no longer confined. The statement must be filed no later than Thursday, December 7, 2017. Failure to comply with this order will result in denial of the motion for leave to proceed *in forma pauperis*.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE