

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jenni Rasmussen Patraw, Plaintiff, v. Scottrade Inc. and John Does 1 through 10, Defendants.	Civil No. 16-cv-3908 (SRN/SER) ORDER
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Jenni Rasmussen Patraw, 115 E. Geranium, St. Paul, MN, 5517, *pro se* Plaintiff.

SUSAN RICHARD NELSON, United States District Judge

In November 2016, Plaintiff Jenni Rasmussen Patraw (“Patraw”) filed a complaint containing federal and state law claims against Defendants related to their alleged mishandling of accounts held by Patraw’s late husband following his death. (Compl. [Doc. No. 1].) Accompanying the Complaint was Patraw’s application to proceed *in forma pauperis* (“IFP”). (First IFP Application [Doc. No. 2].) In her First IFP Application, Patraw plainly states that she makes \$8,000 per month, has few (if any) other assets, has one dependent (her son), but has only \$150 per month in expenses. (*Id.*) Considering Patraw’s income of \$8,000 a month is nearly six times the federal poverty limit, Magistrate Judge Rau (“Judge Rau”) denied Patraw’s IFP application. (Order dated 12/5/2016 [Doc. No. 3].) Judge Rau ordered Patraw to pay the \$400 filing fee within twenty days, otherwise her claims would be dismissed for failure to prosecute. (*Id.*)

More than twenty days elapsed and Patraw did not pay the filing fee, nor did she object to Judge Rau's order. Thus, Judge Rau issued a Report and Recommendation ("R&R") recommending that her claims be dismissed without prejudice for failure to prosecute. (R&R dated 1/6/2017 [Doc. No. 4].) Patraw now objects to the R&R "[b]ased on her income." (*See* Pl.'s Objs. [Doc. No. 5].) Patraw claims that "[t]he forms must have been read incorrectly, because Plaintiff's income is below the standard and the request to proceed in forma pauperis should be granted." (*Id.*) In support, Patraw attached an IFP application from the Minnesota state court system. (Second IFP Application [Doc. No. 5-1].) In this new application, Patraw claims she makes only \$1,000 a month, has \$10,000 in debt, pays \$300 a month in rent or mortgage payments, and pays \$500 a month for her son's orthodontic braces. (*See id.*) Patraw provides no explanation for the considerable differences between the First and Second IFP Applications.

In the interest of fairness, and in light of the new information regarding Patraw's finances, the Court respectfully declines to adopt the Report and Recommendation. However, Patraw will be required to submit a new and accurate IFP application so that the Court can determine if she qualifies for IFP status. To assist Patraw in this process, the Court will order the Clerk of Court to send Patraw a blank copy of the District's IFP application form. However, Patraw is cautioned to carefully and completely fill out the IFP application in a timely fashion. Patraw must also provide an explanation for any differences between the information in her third application and that provided in either of her first two applications. Should Patraw fail to accurately complete and file the IFP application and explanation described above in the time allowed, the Court will dismiss her claims without

prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Objections to the Report and Recommendation [Doc. No. 5] are **SUSTAINED**.
2. The Court respectfully **DECLINES TO ADOPT** the Report and Recommendation [Doc. No. 4] given the new information provided to the Court regarding Plaintiff's financial status.
3. The Clerk of Court is **ORDERED** to mail Plaintiff Patraw a copy of the District's standard IFP application form.
4. Plaintiff Patraw is **ORDERED** to file, **no later than June 2, 2017**, the following documents with the Court:
 - a. A complete and accurate District of Minnesota IFP application; and
 - b. A brief explanation for any differences between this IFP application and either of the two IFP applications she previously submitted.

Dated: May 11, 2017

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge