

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

|                           |   |                     |
|---------------------------|---|---------------------|
| WILLIAM WENTWORTH FOSTER, | ) |                     |
|                           | ) |                     |
| Plaintiff,                | ) |                     |
|                           | ) |                     |
| v.                        | ) | No. 1:12-CV-116-JAR |
|                           | ) |                     |
| GEORGE LOMBARDI, et al.,  | ) |                     |
|                           | ) |                     |
| Defendants.               | ) |                     |

**MEMORANDUM AND ORDER**

This matter is before the Court upon review of plaintiff’s certified inmate account statement [Doc. #11] and his “Response to Show Cause Why He Cannot Pay Partial Filing Fee” [Doc. #10]. The Court will liberally construe the show cause response as a motion to waive the filing fee. The motion will be denied in part and granted in part.

Plaintiff, a prisoner, previously submitted a motion to proceed in forma pauperis and a certified copy of his prison account statement. The Court reviewed the documents and ordered plaintiff to pay an initial partial filing fee of \$9.76 on or before October 6, 2012. Plaintiff now requests leave to proceed without paying any portion of the filing fee whatsoever. He states that his exclusive monthly income for the past six months has been \$8.50, that prison staff is currently deducting \$5.10 per month for

the cost of a state court proceeding, that his inmate account balance is presently \$.13, and that it is financially impossible for him to pay even a portion of the \$9.76 initial partial filing fee, much less the entire \$350 fee.

In instances where a plaintiff faces simultaneous court orders to pay outstanding court filing fees, this Court follows the approach that allows for the simultaneous deduction of fees in all of a prisoner's cases. See Howard v. Fire Insurance Exchange, No. 4:10-CV-2366-HEA (E.D. Mo. 2010)[Doc. #24]. As such, and in light of the fact that plaintiff is unable to pay the \$9.76 initial partial filing fee at this time, the Court will not require him to make this payment before October 6, 2012, but rather, will instruct the Clerk of Court to direct the agency having custody of plaintiff to begin forwarding payments from plaintiff's inmate account pursuant to 28 U.S.C. § 1915(b)(2), until the full amount of the \$350 filing fee is paid.


Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to waive the filing fee [Doc. #8] is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff will be excused from paying the \$9.76 initial partial filing fee on or before October 6, 2012, as previously ordered by this Court; however plaintiff will not be excused from ultimately paying the entire \$350 filing fee.

**IT IS FURTHER ORDERED** that the Clerk of Court shall direct the agency

having custody of plaintiff to begin forwarding payments from plaintiff's inmate account pursuant to 28 U.S.C. § 1915(b)(2), until the full amount of the entire \$350 filing fee is paid.

Dated this 13th day of September, 2012.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE