

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

RICHARD CONNALLY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05-0799-CV-W-FJG
	)	
RON ASHTON and AMERICAN	)	
INGREDIENTS COMPANY,	)	
	)	
Defendants.	)	

**ORDER**

Currently pending before the Court is plaintiff’s Motion for Leave to Proceed in Forma Pauperis (Doc. # 1).

Pursuant to 28 U.S.C. § 1915, this Court may authorize the commencement or prosecution of any suit without prepayment of fees when an applicant files an affidavit stating that they are unable to pay the costs of the lawsuit. In Martin-Trigona v. Stewart, 691 F.2d 856, 857 (8th Cir. 1982), the court noted:

There is a two step process to be followed by the district court in considering whether a pro se plaintiff should be permitted to proceed in forma pauperis. First, a determination of whether the plaintiff qualifies by economic status under § 1915(a) and, if so, to permit the complaint to be filed. Second, a determination of whether the cause of action stated in the complaint is, under § 1915([e]), frivolous or malicious and, if so, to dismiss the complaint.

The district court must exercise its discretion in determining whether an applicant is sufficiently impoverished to qualify under § 1915. Cross v. General Motors Corp., 721 F.2d 1152, 1157 (8th Cir. 1983), cert. denied, 466 U.S. 980 (1984). Such a showing of poverty is sufficient if the applicant would become completely destitute or be forced to give up the basic necessities of life if required to pay the costs of the lawsuit. Adkins v.

E.I. Du Pont De Nemours & Co., 335 U.S. 331, 339 (1948); Local Rule 83.7(a) (1999).

Plaintiff states that he is 44, separated with one dependent. Plaintiff states that he is presently employed as a warehouse man at American Ingredients. Plaintiff indicates that he earns \$380.00 a week and \$1100 per month. Plaintiff states that he owns a three bedroom town home worth \$74,000. He also owns a vehicle worth \$19,000 on which he makes monthly payments of \$500.00. Plaintiff indicates that he has no cash on hand. He states that he has a savings account, but does not list the current balance. Plaintiff states that he has the following monthly expenses: \$600.00 monthly mortgage payment, \$500.00 vehicle payment, \$150.00 grocery bill and \$250.00 in utilities. Plaintiff also has a \$75.00 monthly cable bill and a \$200.00 monthly cell phone bill. Plaintiff also owes balances of \$25.00 on his cable bill and \$150.00 on his cell phone account.

Based upon the information provided in plaintiff's affidavit, the Court believes that plaintiff is sufficiently impoverished to be permitted to proceed in forma pauperis. Accordingly, plaintiff's application for leave to file this civil action in forma pauperis (Doc. # 1) is hereby **GRANTED** and plaintiff may pursue this action without prepayment of fees, costs or security. It is further **ORDERED** that because this case is included in the Case Management/Electronic Case Filing system, and plaintiff is proceeding pro se, the Clerk's Office is directed to electronically file plaintiff's Complaint as of the date of this Order. It is further **ORDERED** that the Clerk shall forward appropriate process forms to plaintiff and within twenty days, plaintiff shall return the completed summons and service forms to the Clerk's office showing the address where defendants may be served. The Clerk of the Court is directed to issue summons and process and deliver the same to the United States Marshal for service upon the defendants. The United

States Marshal may first attempt service by certified mail, return receipt requested.

**/S/ FERNANDO J. GAITAN JR.**

Fernando J. Gaitan, Jr.

United States District Judge

Dated: October 12, 2005  
Kansas City, Missouri