

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 LATONIA SMITH,

Case No. 3:23-cv-00175-ART-CSD

4 Plaintiff

**ORDER**

5 v.

6 NAPHCARE US, INC. and NAPHCARE,  
7 INC.,

8 Defendants

9 Federal inmate Latonia Smith brings this civil-rights action under 42 U.S.C. § 1983,  
10 alleging that her constitutional rights were violated when she was detained at Washoe  
11 County Detention Facility and consistently denied breakfast and lunch meals that met her  
12 dietary needs for many months. (ECF No. 1-1). Plaintiff moves for leave to file a first  
13 amended complaint, arguing that she forgot to include key facts in her original complaint.  
14 (ECF No. 5). The Court grants Plaintiff's motion for leave to amend. But this action cannot  
15 proceed because Plaintiff has neither paid the full \$402 filing fee nor applied to proceed  
16 *in forma pauperis*. So the Court grants Plaintiff an extension of time to correct that  
17 deficiency.

18 **I. MOTION FOR LEAVE TO AMEND**

19 Plaintiff moves for leave to file an amended complaint, arguing she forgot to allege  
20 key facts in her original complaint, and attaches the proposed first amended complaint to  
21 her motion. (ECF Nos. 5, 5-1). Federal Rule of Civil Procedure 15(a)(2) instructs that  
22 "[t]he court should freely give leave [to amend] when justice so requires." An amended  
23 complaint replaces the complaint before it, so the amended complaint must be complete  
24 in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546  
25 (9th Cir. 1989). This means an amended complaint must contain all claims, defendants,  
26 and factual allegations that the plaintiff wishes to pursue in the lawsuit.

27 Plaintiff's proposed first amended complaint appears to be complete and contain  
28 substantially all the information required on the Court's form civil-rights complaint. See

1 Nev. Loc. R. LSR 2-1. The Court therefore grants Plaintiff's motion to file an amended  
2 complaint. If Plaintiff timely complies with the remainder of this order, the Court will screen  
3 Plaintiff's first amended complaint in the ordinary course.

4 **II. FILING FEE OR APPLICATION TO PROCEED *IN FORMA PAUPERIS***

5 This Court must collect filing fees from parties initiating civil actions. 28 U.S.C.  
6 § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee  
7 and the \$52 administrative fee. See 28 U.S.C. § 1914(b). "Any person who is unable to  
8 prepay the fees in a civil case may apply to the court for leave to proceed *in forma*  
9 *pauperis*." Nev. Loc. R. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the  
10 inmate must submit **all three** of the following documents to the Court: (1) a completed  
11 **Application to Proceed *in Forma Pauperis* for Inmate**, which is pages 1–3 of the  
12 Court's approved form, that is properly signed by the inmate twice on page 3; (2) a  
13 completed **Financial Certificate**, which is page 4 of the Court's approved form, that is  
14 properly signed by both the inmate and a prison or jail official; and (3) a copy of the  
15 **inmate's prison or jail trust fund account statement for the previous six-month**  
16 **period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev. Loc. R. LSR 1-2. *In forma pauperis* status  
17 does not relieve an inmate of his or her obligation to pay the filing fee, it just means that  
18 the inmate can pay the fee in installments. See 28 U.S.C. § 1915(b).

19 **III. CONCLUSION**

20 It is therefore ordered that Plaintiff's motion for leave to file an amended complaint  
21 (ECF No. 5) is granted.

22 It is further ordered that Plaintiff has **until January 15, 2024**, to either pay the full  
23 \$402 filing fee or file a fully complete application to proceed *in forma pauperis* with all  
24 three required documents: (1) a completed application with the inmate's two signatures  
25 on page 3, (2) a completed financial certificate that is signed both by the inmate and the  
26 prison or jail official, and (3) a copy of the inmate's trust fund account statement for the  
27 previous six-month period.

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Plaintiff is cautioned that this action will be subject to dismissal without prejudice if she fails to timely comply with this order. A dismissal without prejudice allows Plaintiff to refile the case with the Court, under a new case number, when she can file a complete application to proceed *in forma pauperis* or pay the required filing fee.

The Clerk of the Court is directed to (1) file the first amended complaint (ECF No. 5-1) and (2) send Plaintiff Latonia Smith the approved form application to proceed *in forma pauperis* for an inmate and instructions for the same.

DATED THIS 15th day of November 2023.



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UNITED STATES MAGISTRATE JUDGE