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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DESMOND WITHERSPOON, Plaintiff, v. VIBE MAGAZINE, Defendant.	**Civil Action No. 14-7941 (SRC)** **OPINION**

CHESLER, District Judge

This matter comes before the Court on the application filed by Plaintiff Desmond Witherspoon to proceed in forma pauperis without fees under 28 U.S.C. § 1915. The Court finds that Plaintiff qualifies for in forma pauperis status, yet his Complaint will be dismissed. The Court must examine Plaintiff's claim and dismiss it if frivolous or legally insufficient. 28 U.S.C. § 1915(e)(2). The Complaint states as its cause of action "prejudice" and cites 28 U.S.C. § 144, which provides a mechanism for a party to a proceeding to file an affidavit giving reasons why the judge assigned to the case is, in the party's view, biased or prejudiced. It does not constitute a private cause of action. Moreover, the Complaint fails to allege a single fact regarding Defendant Vibe Magazine. As such, Plaintiff has failed to state a basis for federal subject matter jurisdiction, and he has failed to state a facially plausible claim for relief. For the reasons provided in the Opinion for Civil Action No. 14-6296, Plaintiff is on notice that he may be sanctioned if he continues to file unsubstantiated and repetitive lawsuits. An appropriate Order will be filed.

s/Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge

Dated: January 9, 2015

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