

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MATTHEW J. CHANNON,

Plaintiff,

v.

No. 18cv0596 KBM

JEFF TAVANGAR,
SHELLEY BACA,
JENNIFER IRELAND,
ARMADA GROUP, INC,
NATALIE GANN, and
TP-LINK RESEARCH AMERICA CORPORATION,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 3, filed June 26, 2018 (“Application”). For the reasons stated below, the Court **GRANTS** the Application.

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

Menefee v. Werholtz, 368 Fed.Appx. 879, 884 (10th Cir. 2010) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962).). “[A]n application to proceed *in forma pauperis* should be evaluated in light of the applicant's present financial status.” *Scherer v. Kansas*, 263 Fed.Appx. 667, 669

(10th Cir. 2008) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir.1988)). “The statute [allowing a litigant to proceed *in forma pauperis*] was intended for the benefit of those too poor to pay or give security for costs....” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 344 (1948). While a litigant need not be “absolutely destitute,” “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.” *Id.* at 339.

The Court will grant Plaintiff’s Application to proceed *in forma pauperis*. Plaintiff signed an affidavit stating he is unable to pay the costs of these proceedings and provided the following information: (i) Plaintiff’s average monthly income during the past 12 months was 2,950.00, but his expected income next month is \$0.00;¹ (ii) Plaintiff’s monthly expenses total \$3,720.00; (iii) Plaintiff is unemployed and is “currently out on supervised release pending a petition to the US Supreme Court regarding federal convictions.” The Court finds Plaintiff is unable to pay the costs of these proceedings because he is unemployed and expects no income next month.

Section 1915 provides that the “officers of the court shall issue and serve all process, and perform all duties in [proceedings *in forma pauperis*]”. 28 U.S.C. § 1915(d). Rule 4 provides that:

At the plaintiff’s request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.

Fed. R. Civ. P. 4(c)(3).

¹ The Court disregards Plaintiff’s employment history that indicates he was/will be employed by MyGini, Inc., from “8/2018 to 10/2018” with gross monthly pay of “\$15000,” because it appears to contain typographical errors. Application at 2.

The Court will order service of Summons and Complaint on the two corporate Defendants but will not order service on the individual Defendants at this time because Plaintiff has not provided the individual Defendants' addresses. The Court will order service if Plaintiff provides the Court with the individual Defendants' addresses.

IT IS ORDERED that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 3, filed June 26, 2018, is **GRANTED**.

IT IS ALSO ORDERED that the Clerk issue notice and waiver of service forms, with copies of the Complaint, Doc. 1, and this Order to:

Armada Group, Inc.
325 Soquel Avenue
Santa Cruz, California 95062

and

TP-LINK Research America Corporation
245 Charcot Avenue
San Jose, California 95130.



UNITED STATES MAGISTRATE JUDGE