

DOCKET & FILE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

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RICARDO PHILLIPS,

Plaintiff,

MEMORANDUM AND ORDER

-against-

10-CV-5774 (KAM)

FREMONT INVESTMENT & LOAN,

Defendants.
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MATSUMOTO, United States District Judge:

Plaintiff Ricardo Phillips (“plaintiff”) filed this *pro se* action on December 9, 2010. (ECF No. 1, Compl.) Plaintiff did not pay the \$350 filing fee, but instead moved to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2, Pl.’s Request to Proceed *In Forma Pauperis* (“Pl.’s Aff”).) Presently before this court is plaintiff’s application to proceed *in forma pauperis*. (*Id.*)

Under 28 U.S.C. § 1915, the court may waive the filing fee upon finding a plaintiff indigent. 28 U.S.C. § 1915. Here, however, plaintiff’s affidavit does not clearly demonstrate indigency that would entitle him to proceed without the prepayment of fees. For example, in his affidavit, plaintiff indicates that he is employed, but he does not give information about his employer nor indicate how much he earns. (Pl.’s Aff. ¶ 1.) He also states that he receives income from a source, but he does not identify the source nor the amount that he receives. (*Id.* ¶ 3(b).) Further, plaintiff indicates that he has money, owns property, and pays either rent or a mortgage, but fails to indicate the amount or value of these assets. (*Id.* ¶¶ 4-5, 7.) In the space to indicate any special financial circumstances for the court to consider, he simply alleges that “I can not afford [a] filing fee at this time.” (*Id.* ¶ 8.)

Upon review of plaintiff's incomplete affidavit, the court is unable to determine whether plaintiff is entitled to proceed *in forma pauperis*. Accordingly, the court directs plaintiff to submit a completed Request to Proceed *In Forma Pauperis* application to proceed *in forma pauperis* within 14 days from the date of this Order or to pay the \$350 filing fee to the Clerk of Court of the Eastern District of New York within 14 days from the date of this Order. If plaintiff fails to submit a Request to Proceed *In Forma Pauperis* application or fails to remit the filing fee within the time allowed, the action shall be dismissed without prejudice.

SO ORDERED.

Dated: January 3, 2011
Brooklyn, New York

/s/
KIYO A. MATSUMOTO
United States District Judge