

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

NO. 5:08-CV-456-FL(3)

ANNE F. EDWARDS,)
)
 Plaintiff,)
)
 vs.)
)
 ASTORIA FEDERAL SAVINGS,)
)
 Defendant.)
 _____)

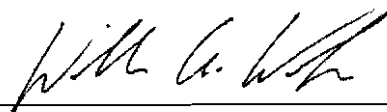
**MEMORANDUM AND
RECOMMENDATION**

Plaintiff has filed an application to proceed *in forma pauperis*. She has demonstrated appropriate evidence of inability to pay the required court costs. However, the Court must also conduct a review pursuant to 28 U.S.C. §§ 1915(e)(2) which requires the Court to dismiss all or any part of an action found to be frivolous or malicious, which fails to state a claim upon which relief can be granted, or which seeks money damages from a defendant immune from such recovery. *See Cochran v. Morris*, 73 F.3d 1310, 1315-16 (4th Cir. 1996)(discussing *sua sponte* dismissal under predecessor statute 28 U.S.C. § 1915(d)). A case is frivolous if it lacks an arguable basis in either law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

In the instant matter, Plaintiff makes absolutely no factual allegations to support the claims in her Complaint [DE 1-2, pg. 2]. Because of this failure, Plaintiff's Complaint lacks any arguable basis in fact. Accordingly, the undersigned

RECOMMENDS that Plaintiff's motion to proceed *in forma pauperis* be GRANTED, but that her Complaint be dismissed for failure to state a claim.

SO RECOMMENDED in Chambers at Raleigh, North Carolina this 19th day of September, 2008.

A handwritten signature in cursive script, appearing to read "William A. Webb", is written above a horizontal line.

William A. Webb
U.S. Magistrate Judge