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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RICHARD DIMAIO,  
  
Plaintiff,  
  
v.  
  
COUNTY OF SNOHOMISH, et al.,  
  
Defendants.

CASE NO. C18-0793JLR  
  
ORDER ADOPTING REPORT  
AND RECOMMENDATION,  
DENYING IN FORMA  
PAUPERIS STATUS, AND  
DIRECTING PAYMENT OF  
FILING FEE

Before the court are the Report and Recommendation of United States Magistrate Judge Brian A. Tsuchida (R&R (Dkt. # 4)) and Plaintiff Richard DiMaio’s objections thereto (Obj. (Dkt. # 6)).<sup>1</sup> Having reviewed the Report and Recommendation, Mr.

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<sup>1</sup> Although Mr. DiMaio styled his filing as a “[m]otion to resubmit a corrected Forma Pauperis form for reconsideration,” Mr. DiMaio filed the document “[i]n response to the Honorable Brian A. Tsuchida’s decision to deny the forma Pauperis form that the plaintiff (Richard DiMaio) produced.” (Obj. at 1.) Thus, the court treats Mr. DiMaio’s submission as an objection to the Report and Recommendation.

1 DiMaio's objections, the relevant portions of the record, and the applicable law, the court  
2 ADOPTS the Report and Recommendation (Dkt. # 4).

3 On May 29, 2018, Mr. DiMaio filed a motion for leave to proceed *in forma*  
4 *pauperis* ("IFP"). (IFP Mot. (Dkt. # 1).) Judge Tsuchida recommends that the court  
5 deny Mr. DiMaio's motion to proceed IFP because Mr. DiMaio "appears to have  
6 sufficient funds with which to pay the \$400.00 court filing fee," specifically because he  
7 reported a "net monthly income of \$2,400.00 and \$2,000.00 in saving[s]." (R&R at 1-2.)  
8 In response, Mr. DiMaio states that he "inaccurately listed [his] savings account amount  
9 to be \$2[, ]000[.00]" when in actuality, he has only \$200.00 in his savings account. (Obj.  
10 at 1.) Mr. DiMaio attached a corrected IFP application form, in which he states that he  
11 currently makes \$38,000.00 per year; takes home \$2,400.00 in net salary per month; and  
12 owns a motorcycle worth about \$2,000.00. (*Id.* at 3-4.)

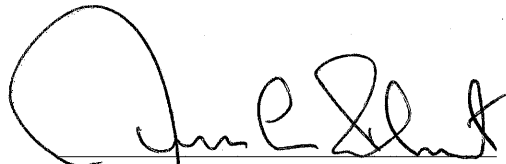
13 A district court has jurisdiction to review a Magistrate Judge's report and  
14 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must  
15 determine de novo any part of the magistrate judge's disposition that has been properly  
16 objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part,  
17 the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).  
18 The court reviews de novo those portions of a report and recommendation to which a  
19 party specifically objects in writing. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121  
20 (9th Cir. 2003) (en banc).

21 Here, Mr. DiMaio's objections indicate that he has less savings than initially stated  
22 on his IFP form. (*See* Obj. at 1-2.) However, as Judge Tsuchida noted, Mr. DiMaio's

1 income—\$2,400.00 a month and \$38,000.00 a year—indicates that it would not be  
2 unreasonable to expect him to pay the court’s \$400.00 filing fee. (See R&R at 2; Obj. at  
3 3.) Moreover, Mr. DiMaio’s assets—namely, his motorcycle—bolsters the conclusion  
4 that he has sufficient funds to pay the filing fee. (See Obj. at 4.)

5 Thus, after examining the record, the court finds that the reasoning contained in  
6 the Report and Recommendation is persuasive in light of that record. Accordingly, the  
7 court ADOPTS the Report and Recommendation (Dkt. # 7) in its entirety and DENIES  
8 Mr. DiMaio’s motion to proceed IFP (Dkt. # 1). The court ORDERS Mr. DiMaio to pay  
9 the required filing fee (\$400.00) within thirty (30) days of the entry of this order. The  
10 court further DIRECTS the Clerk to send copies of this order to Mr. DiMaio and to the  
11 Honorable Brian A. Tsuchida.

12 Dated this <sup>th</sup>25 day of June, 2018.

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14 JAMES L. ROBART  
United States District Judge  
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