

1 HONORABLE RONALD B. LEIGHTON

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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 GARY CASTERLOW-BEY,

CASE NO. C17-5649RBL

10 Plaintiff,

ORDER DENYING IFP

v.

11 TACOMA NEWS TRIBUNE,

12 Defendant.

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14 THIS MATTER is before the Court on Plaintiff Casterlow-Bey's Motion for Leave to  
15 proceed *in forma pauperis*, supported by his proposed complaint. Casterlow-Bey also seeks court  
16 appointed counsel. [Dkt. #s 1, 1-1, and 1-2].

17 A district court may permit indigent litigants to proceed *in forma pauperis* upon  
18 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The Court has broad  
19 discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil  
20 actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir.  
21 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed *in*  
22 *forma pauperis* at the outset if it appears from the face of the proposed complaint that the action  
23 is frivolous or without merit." *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir.

1 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint  
2 is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v. Dawson*, 778  
3 F.2d 527, 529 (9th Cir. 1985); *see also Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

4 A *pro se* Plaintiff’s complaint is to be construed liberally, but like any other complaint it  
5 must nevertheless contain factual assertions sufficient to support a facially plausible claim for  
6 relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (citing *Bell*  
7 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). A  
8 claim for relief is facially plausible when “the plaintiff pleads factual content that allows the  
9 court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”  
10 *Iqbal*, 556 U.S. at 678.

11 Casterlow-Bey’s proposed complaint does not meet this standard. It makes no factual  
12 allegations against the defendant newspaper, the Tacoma News Tribune, other than to state that it  
13 “printed an article that was slanderous assassinated my character as a man[.]” The rest of the  
14 complaint is a series of legal conclusions related to the First Amendment and its purpose.

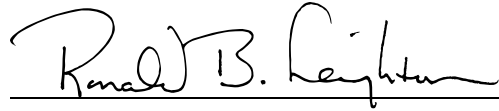
15 There are no actual facts from which this court can conclude that the News Tribune did  
16 anything actionable to Casterlow-Bey. Who wrote the article? When? What did it say? What was  
17 not true about it? Why is it actionable, in this court (slander is a state law tort)? Instead, the  
18 complaint includes only conclusory labels and seeks \$50,000,000 damages.

19 The Motion for leave to proceed *in forma pauperis* is **DENIED**. Casterlow-Bey shall file  
20 a proposed amended complaint addressing these deficiencies, or pay the filing fee, **within 21**  
21 **days** or this matter will be dismissed. Any proposed amended complaint must address the “who  
22 what when why and how” of the facts underlying and supporting the claim. Labels and  
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1 conclusions will not suffice. It must also address and demonstrate this Court's jurisdiction over  
2 the subject matter of the dispute. The Motion for court-appointed counsel is also **DENIED**.

3 IT IS SO ORDERED.

4 Dated this 31<sup>st</sup> day of August, 2017.

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7 Ronald B. Leighton  
8 United States District Judge  
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