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

8 DAN BRINKMAN,

Plaintiff,

9 v.

10 SOCIAL SECURITY  
11 ADMINISTRATION  
HEADQUARTERS, et al.,

Defendants.

CASE NO. C17-5661 BHS

ORDER DENYING PLAINTIFF'S  
MOTION TO PROCEED *IN*  
*FORMA PAUPERIS* AND MOTION  
TO APPOINT COUNSEL AND  
DISMISSING COMPLAINT *SUA*  
*SPONTE*

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14 This matter comes before the Court on Plaintiff Dan Brinkman's ("Brinkman")  
15 motion to proceed *in forma pauperis* (Dkt. 1), proposed complaint (Dkt. 1-1), and motion  
16 for appointment of counsel (Dkt. 1-3).

17 On August 21, 2017, Brinkman filed the instant motions and proposed complaint  
18 alleging a massive government conspiracy intended to wrong Brinkman and his wife. *Id.*  
19 The alleged conspiracy started during the Clinton administration and continued through  
20 the Bush and Obama administrations. *Id.* Although this is Brinkman's first pro se  
21 complaint in this Court, he has filed several pro se complaints in the United States  
22 District Court for the District of Oregon. *See Brinkman v. IRS, et al.*, Case #: 3:13-cv-

1 01434-SI (D. Or.); *Brinkman v. Ross, et al.*, Case #: 3:11-cv-00489-HZ (D. Or.);  
2 *Brinkman v. Grant, et al.*, Case # 3:11-cv-00118-BR (D. Or.); *Brinkman v. Leatherwood,*  
3 *et al.*, Case # 3:10-cv-01133-KI (D. Or.); *Brinkman v. Liberty Tax Service, et al.*, 3:10-  
4 cv-00192-HU (D. Or.). Most of these cases were dismissed *sua sponte*, and none of the  
5 complaints survived a motion to dismiss. The instant complaint is similarly flawed.

6 The district court may permit indigent litigants to proceed *in forma pauperis* upon  
7 completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a); W.D. Wash.  
8 Local Rules LCR 3(b). However, the “privilege of pleading *in forma pauperis* . . . in  
9 civil actions for damages should be allowed only in exceptional circumstances.” *Wilborn*  
10 *v. Escalderon*, 789 F.2d 1328 (9th Cir. 1986). The court has broad discretion in denying  
11 an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir.  
12 1963), *cert. denied* 375 U.S. 845 (1963). Here, Brinkman’s *in forma pauperis*  
13 application shows that he is unable to prepay fees and costs. See Dkt. 1.

14 However, even if a plaintiff satisfies the financial requirements for eligibility to  
15 proceed *in forma pauperis*, the Court’s review of the application and underlying  
16 complaint is not complete. Under the *in forma pauperis* statute, the Court must dismiss  
17 the case *sua sponte* if it determines at any time that (1) the allegation of poverty is untrue,  
18 (2) the action is frivolous or malicious, (3) the complaint fails to state a viable claim, or  
19 (3) the action seeks monetary relief against an immune defendant. 28 U.S.C. §  
20 1915(e)(2); see also *Neitzke v. Williams*, 490 U.S. 319, 324 (1989); *Jackson v. State of*  
21 *Arizona*, 885 F.2d 881, 882 (9th Cir. 1989). A complaint is frivolous “where it lacks an  
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1 arguable basis either in law or fact.” *Neitzke*, 490 U.S. at 325; *Lopez v. Dep’t of Health*  
2 *Servs.*, 939 F.2d 881, 882 (9th Cir. 1991); *Jackson*, 885 F.2d at 640..

3 In this case, Brinkman’s complaint lacks an arguable basis in law or fact. While it  
4 seems that the trigger for Brinkman’s filing was the denial of his social security benefits,  
5 Brinkman must exhaust his administrative remedies before challenging the denial in this  
6 Court. More importantly, the denial of such benefits does not form a factual basis for a  
7 federal and multi-state government conspiracy to harm Brinkman. Simply put,  
8 Brinkman’s allegations are not plausible on their face. *Ashcroft v. Iqbal*, 556 U.S. 662,  
9 678 (2009). Therefore, the Court *sua sponte* **DISMISSES** Brinkman’s complaint,  
10 **DENIES** his motion to proceed *in forma pauperis*, and **DENIES** his motion to appoint  
11 counsel. The Clerk shall close this case.

12 **IT IS SO ORDERED.**

13 Dated this 24th day of August, 2017.

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BENJAMIN H. SETTLE  
United States District Judge