

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOHNNIE LITTLE,

Plaintiff,

v.

Case No. 14-C-1063

LEVY PREMIMUM FOOD SERVICE,
doing business as Levy Restaurants

Defendant.

DECISION AND ORDER

Plaintiff Johnnie Little (“Little”) seeks leave to proceed *in forma pauperis* in the above captioned action against his former employer, Defendant Levy Premium Food Service (“Levy Food”), alleging that Levy Food discriminated against him based on his race (African-American) by subjecting him to disparate treatment and a hostile work environment. To authorize a litigant to proceed *in forma pauperis*, the Court must make two determinations: 1) whether the litigant is unable to pay the costs of commencing the action; and, 2) whether the action is frivolous or malicious. 28 U.S.C. § 1915(a) & (e)(2). The Court must deny a request to proceed IFP if (1) the allegation of poverty is untrue; (2) the action is frivolous; (3) the action fails to state a claim; or (4) the action seeks monetary relief against

an immune defendant. 28 U.S.C. § 1915(e)(2).

Review of Little's petition and affidavit to proceed without prepayment of costs and fees indicates that he is unemployed, receives \$189 in public assistance and has no valuable assets of any kind. From time to time his mother allows him to sleep at her home. Little has established that he is unable to pay the \$400 fee for filing this action.

Little has also alleged facts regarding race discrimination in violation of Title VII of the 1964 Civil Rights Act, 42 USC 2000e-2. However, under Title VII, a plaintiff is required to exhaust his administrative remedies by filing a complaint with the appropriate federal or state agency. *Volousek v. Wis. Dep't of Agric., Trade & Consumer Prot.*, 344 F.3d 680, 687 (7th Cir. 2003). *See also, Miller v. Am. Family Ins. Co.*, 203 F.3d 997, 1002 n.3 (7th Cir. 2000); *Cheek v. W. & S. Life Ins. Co.*, 31 F.3d 497, 500 (7th Cir. 1994). Before the Court resolves Little's motion for leave to proceed *in forma pauperis*, Little must supplement the information he has filed to indicate whether or not he has exhausted his administrative remedies. Little is advised that failure to file such information will result in the dismissal of this action for failure to prosecute.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS
HEREBY ORDERED THAT:**

No later than November 5, 2014, Little must supplement the information he has filed to indicate whether or not he has exhausted his administrative remedies.

Dated at Milwaukee, Wisconsin, this 15th day of October, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge