

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Samad v. Boersch

No. 2:25-cv-02169-DC-CKD (PS) (E.D. Cal. Aug. 20, 2025) · No. 2:25-cv-02169-DC-CKD (PS) · Decided
August 21, 2025

SUMMARY

The Eastern District of California ordered the plaintiffs to pay the filing and administrative fees within 30 days after finding that their in forma pauperis applications did not establish inability to pay. The order also noted that pro se plaintiffs cannot represent a class action without counsel.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 21, 2025
DOCKET	2:25-cv-02169-DC-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs proceeding without counsel submitted separate applications to proceed in forma pauperis in a civil-rights action and sought to pursue the matter as a class action.
STANDARD OF REVIEW	The court evaluated the sufficiency of the plaintiffs' affidavits and financial information under 28 U.S.C. § 1915(a) and § 1915(e)(2).
PRECEDENTIAL VALUE	Nonprecedential district court order
PARTIES	Alamin Samad, Derrick White, Jonny Rice v. Martha Boersch

TOPICS

class actions civil procedure

PRACTICE AREAS

Civil procedure In forma pauperis proceedings Class actions

QUESTIONS PRESENTED

1. Whether the plaintiffs demonstrated inability to pay the filing and administrative fees required to proceed in forma pauperis.
2. Whether pro se plaintiffs may bring a class action or represent absent class members without counsel.

HOLDINGS

1. Plaintiffs failed to make the requisite showing of poverty under 28 U.S.C. § 1915(a), and the court ordered them to pay the filing and administrative fees within thirty days.
2. Plaintiffs proceeding without counsel cannot bring the action as a class action or represent absent class members.

KEY QUOTATIONS

“Where there are multiple plaintiffs in a single action, the plaintiffs may not proceed in forma pauperis unless all of them demonstrate inability to pay the filing fee.” (at 1)

“An affidavit in support of an IFP application is sufficient where it alleges that the affiant cannot pay the court costs and still afford the necessities of life.” (at 1)

“A pro se plaintiff cannot represent a class in a class action.” (at 3)

FACTUAL BACKGROUND

Plaintiffs Alamin Samad, Derrick White, and Jonny Rice filed separate applications to proceed in forma pauperis. Samad reported \$5,565.57 in a checking or savings account, \$7,708.97 in total cash, gross monthly wages of \$3,500, and monthly expenses of \$3,196.42. The court concluded that the financial information did not demonstrate inability to pay the required fees; the court also noted that plaintiffs sought to bring the matter as a class action while proceeding pro se.

PROCEDURAL HISTORY

Plaintiffs filed the action and separate applications to proceed in forma pauperis. The magistrate judge determined that the plaintiffs did not establish inability to pay the filing and administrative fees, ordered them to submit those fees within thirty days, and warned that failure to do so would result in a recommendation that the IFP applications be denied and the action dismissed without prejudice.

DISPOSITION

other

CASES CITED

- Darden v. Indymac Bancorp, Inc., No. CIV S-09-2970 JAM DAD, 2009 WL 5206637, at *1 (E.D. Cal. Dec. 23, 2009)
- Hampton v. City of Pomona Police Department, No. 2:22-cv-09430-FWS-ADS, 2023 WL 3317063, at *1 (C.D. Cal. Jan. 12, 2023)

- United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981)
- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948)
- McShane v. United States, 366 F.2d 286, 288 (9th Cir. 1966)
- C.E. Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th Cir. 1987)
- Rudgayzer v. Yahoo! Inc., 2012 WL 5471149, at *4-5 (N.D. Cal. Nov. 9, 2012)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ALAMIN SAMAD, et al., No. 2:25-cv-02169-DC-CKD (PS) 12 Plaintiffs,
13 v. ORDER 14 MARTHA BOERSCH, et al., 15 Defendants. 16 17 Plaintiffs Alamin Samad,
Derrick White, and Jonny Rice proceed without counsel and 18 seek to proceed in forma
pauperis.1 This matter is before the undersigned pursuant to Local Rule 19 302(c)(21).

See 28 U.S.C. § 636(b)(1). 20 In order to commence a civil action, along with the complaint, a
plaintiff must either pay 21 the \$350.00 filing fee and the \$55.00 administrative fee or request
leave to proceed in forma 22 pauperis (“IFP”). See 28 U.S.C. §§ 1914(a), 1915(a). “Where there
are multiple plaintiffs in a 23 single action, the plaintiffs may not proceed in forma pauperis unless
all of them demonstrate 24 inability to pay the filing fee.” Darden v. Indymac Bancorp, Inc., No.
CIV S-09-2970 JAM DAD, 25 2009 WL 5206637, at *1 (E.D.

Cal. Dec. 23, 2009); see also Hampton v. City of Pomona Police 26 Dep’t, No. 2:22-cv-09430-
FWS-ADS, 2023 WL 3317063, at *1 (C.D. Cal. Jan. 12, 2023) 27 28 1 Plaintiffs White and Rice
are both currently in prison. (See ECF No. 1 at 4; Docket.) 1 (denying IFP applications where one
plaintiff did not sufficiently demonstrate an inability to pay 2 the filing fee and still afford the
necessities of life).

3 A plaintiff seeking leave to proceed in forma pauperis must submit an affidavit 4 demonstrating
inability to pay the filing fee, which must include a statement of all the plaintiff’s 5 assets and
demonstrate the affiant’s poverty “with some particularity, definiteness, and certainty.” 6 United
States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981). “An affidavit in support of an IFP 7
application is sufficient where it alleges that the affiant cannot pay the court costs and still afford 8
the necessities of life.” Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir.

2015) (citation 9 omitted). While § 1915(a) does not require a litigant to demonstrate absolute
destitution, Adkins 10 v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948), the applicant
must nonetheless 11 show that he is “unable to pay such fees or give security therefor.” 28 U.S.C.
§ 1915(a). If the 12 court determines “the allegation of poverty is untrue,” the court “shall dismiss
the case.” 28 13 U.S.C. § 1915(e)(2).

14 Here, plaintiff Samad, plaintiff White, and plaintiff Rice all filed separate applications in 15 support of their requests to proceed in forma pauperis. (ECF Nos. 2, 6, 8.) Plaintiffs do not make 16 the requisite showing of poverty to be granted leave to proceed in forma pauperis. 17 Plaintiff Samad's affidavit does not support a finding that he was unable to pay the court 18 costs and still afford the necessities of life when plaintiffs filed this suit.

(See ECF No. 2.) At the 19 time plaintiffs filed the suit, plaintiff Samad had \$5,565.57 in a checking or savings account and 20 \$7,708.97 total in cash.² Significantly, plaintiff Samad earned \$3,500 in gross pay or wages every 21 month.

Although plaintiff Samad listed total monthly expenses of \$3,196.42 per month, there is a 22 net-positive monthly source of money even with the listed expenses. 23 While § 1915(a) does not require a litigant to demonstrate "absolute destitution," *Adkins*, 24 335 U.S. at 339, the applicant must nonetheless show inability to pay the fees. 28 U.S.C. 25 § 1915(a).

Plaintiff Samad's income and expenses demonstrate that the plaintiffs do not make the 26 requisite showing of poverty to be granted leave to proceed in forma pauperis. 27 2 A Bank of America account statement from July 18, 2025, attached to plaintiff Samad's in 28 forma pauperis application indicates an account balance of \$7,002.66. (ECF No. 2 at 8.) 1 Plaintiffs will be granted 30 days in which to submit the appropriate filing fee and 2 || administrative fee to the Clerk of the Court.

Plaintiffs are cautioned that failure to pay the court 3 || costs will result in a recommendation that the applications to proceed in forma pauperis be denied 4 | and the present action be dismissed without prejudice.^o 5 For the reasons set forth above, IT IS HEREBY ORDERED that, within thirty (30) days 6 | from the date of this order, plaintiffs shall submit the appropriate filing fee and administrative fee. □; " 1 i: i f 7 | Dated: August 20, 2025 / a jf le lg 4 CAROLYN K DELANEY?

9 UNITED STATES MAGISTRATE JUDGE 10 5, sama.2169.25 11 12 13 14 15 16 17 18 19 20 21 22 OO > The Court also notes that plaintiffs wish to bring this case as a class action. (See ECF No. | at 24 || 4-5; ECF No. 4.) A pro se plaintiff cannot represent a class in a class action. *McShane v. United States*, 366 F.2d 286, 288 (9th Cir. 1996) (stating a pro se plaintiff "has no authority to appear as 25 an attorney for others than himself"); C.E.

Pope Equity Trust v. United States, 818 F.2d 696, 697 26 |) (9th Cir. 1987); *Rudgayzer v. Yahoo! Inc.*, 2012 WL 5471149, at *4-5 (N.D. Cal. Nov. 9, 2012) (finding the court lack subject matter jurisdiction because pro se plaintiff could not represent class 27 || members).

Accordingly, plaintiffs are unable to bring this action as a class action if they are proceeding without counsel. The court expresses no opinion about whether plaintiffs could bring 28 | their claims individually.

