

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Andrejev v. Trotsiouk

Andrejev · No. 2:25-cv-1394-DC-CSK · Decided August 20, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Defendants Marcella Trotsiouk and Igor Trotsiouk’s motion to dismiss as premature. Because the pro se plaintiff’s complaint had not yet undergone mandatory screening under 28 U.S.C. § 1915(e)(2), the motion was denied without prejudice, leaving Defendants an opportunity to respond after screening.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 20, 2025
DOCKET	2:25-cv-1394-DC-CSK
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss a pro se complaint before the court had completed mandatory screening under 28 U.S.C. § 1915(e)(2).
PRECEDENTIAL VALUE	unknown

TOPICS

- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights

QUESTIONS PRESENTED

1. Whether defendants' motion to dismiss should be considered before the court completed mandatory screening of the in forma pauperis complaint.

HOLDINGS

1. A motion to dismiss filed before the court completes screening under 28 U.S.C. § 1915(e)(2) is premature and should be denied without prejudice.

KEY QUOTATIONS

“Therefore, Defendants Marcella Trotsiouk and Igor Trotsiouk’s motion to dismiss (ECF No. 4) is denied as premature.” (at 1)

“Accordingly, Defendants’ motion to dismiss (ECF No. 4) is denied without prejudice.” (at 2)

FACTUAL BACKGROUND

Galina V. Andreyev proceeded pro se and filed a complaint after moving to proceed in forma pauperis. The complaint had not yet been screened under 28 U.S.C. § 1915(e)(2) when Marcella Trotsiouk and Igor Trotsiouk moved to dismiss.

PROCEDURAL HISTORY

Plaintiff filed the complaint on May 16, 2025, and moved to proceed in forma pauperis. After granting IFP status, the court was required to screen the complaint, but screening had not yet occurred when defendants filed their motion to dismiss. The court denied the motion as premature and without prejudice.

DISPOSITION

other

CASES CITED

- Gibbons v. Arpaio, 2007 WL 2990151, at *2 (D. Ariz. Oct. 11, 2007)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 GALINA V. ANDREYEV, Case No. 2:25-cv-1394-DC-CSK 12 Plaintiff, 13
v. ORDER DENYING DEFENDANT’S MOTION TO DISMISS AS PREMATURE 14
MARCELLA TROTSIOUK, et al., 15 Defendants. (ECF No. 4) 16 17 Plaintiff Galina V.
Andreyev, who is proceeding pro se, has moved to proceed in 18 forma pauperis (“IFP”) in this
action.

(ECF No. 2.) After determining whether IFP is 19 appropriate and granting IFP, the Court must
screen the complaint and dismiss any 20 claims that are frivolous or malicious, fail to state a claim
on which relief may be granted, 21 or seek monetary relief against an immune defendant. 28
U.S.C. § 1915(e)(2). Plaintiff's 22 Complaint, which was filed on May 16, 2025, has not yet been
screened; thus, the Court 23 has not yet determined whether the Complaint states any cognizable
claim(s).

Therefore, 24 Defendants Marcella Trotsiouk and Igor Trotsiouk's motion to dismiss (ECF No. 4) is 25 denied as premature. See *Gibbons v. Arpaio*, 2007 WL 2990151, *2 (D. Az. Oct. 11, 26 2007) (dismissing as premature a motion to dismiss that was filed before screening order 27 issued).

The Court will screen the Complaint in due course, and if any cognizable claims 28 remain after screening, Defendant will have the opportunity to respond to the Complaint 1 | or if leave to amend is provided, respond to an Amended Complaint.

Accordingly, 2 || Defendants' motion to dismiss (ECF No. 4) is denied without prejudice. 3 IT |S
SO ORDERED. 4 5 Dated: August 19, 2025 CC; s \C 6 GHI 500 KIM UNITED STATES
MAGISTRATE JUDGE 7 || 4, andr1394.25 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
26 27 28