

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, HAMMOND DIVISION

Jerry A. Smith v. MGM Property Management LLC, et al.

No. 2:25-CV-531-GSL-AZ, United States District Court for the Northern District of Indiana, Hammond Division
(November 25, 2025)

SUMMARY

The court denies Jerry A. Smith’s motion to proceed in forma pauperis because the motion contains inconsistent financial information and does not establish inability to pay the filing fee. The complaint is dismissed without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii), and Plaintiff is granted leave to refile a corrected IFP motion and complaint using the clerk-supplied form.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, Hammond Division
WRITING FOR THE COURT	Gretchen S. Lund
JURISDICTION	United States District Court for the Northern District of Indiana, Hammond Division
DECIDED	November 25, 2025
DOCKET	2:25-CV-531-GSL-AZ
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved to proceed in forma pauperis. The district court denied the motion and dismissed the complaint without prejudice during statutory screening.
STANDARD OF REVIEW	Statutory screening under 28 U.S.C. § 1915(e)(2)(B)(ii).
PRECEDENTIAL VALUE	Unknown

TOPICS

- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

- Civil procedure
- Federal courts
- In forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Plaintiff established eligibility to proceed in forma pauperis under 28 U.S.C. § 1915(a).
2. Whether an LLC may proceed in forma pauperis without representation by counsel.
3. Whether the complaint should be dismissed without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii).

HOLDINGS

1. Plaintiff's motion to proceed in forma pauperis was properly denied because it failed to establish that he was unable to prepay the filing fee and contained directly conflicting statements about his income.
2. An LLC may not proceed pro se or qualify for in forma pauperis treatment; if Plaintiff intended to bring claims on behalf of an LLC, the LLC must appear through a lawyer.
3. The complaint was dismissed without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii), with leave to refile a corrected complaint and a properly completed in forma pauperis motion.

KEY QUOTATIONS

"If Plaintiff is bringing claims on behalf of his "d/b/a," he can be pro se and proceed IFP, but if he is an LLC, he cannot." (Discussion)

"Plaintiff is granted leave to refile his motion to proceed in forma pauperis using the clerk-supplied IFP form, in accordance with N.D. Ind. L.R. 7-6, and his corrected complaint, by December 29, 2025." (Conclusion)

FACTUAL BACKGROUND

Jerry A. Smith sought to proceed without prepaying the federal filing fee. His motion stated that he had received no income during the prior twelve months but also listed gross monthly pay of several thousand dollars for multiple months. The complaint identified him as doing business through entities or assumed business names, creating uncertainty whether he was proceeding individually or on behalf of an LLC.

PROCEDURAL HISTORY

Plaintiff filed a complaint and a motion to proceed in forma pauperis. The court found that the motion did not establish inability to prepay the filing fee, contained internally inconsistent financial information, and failed to clarify whether claims were being brought by an individual or an LLC. The court denied the motion, dismissed the complaint without prejudice, and granted leave to refile a corrected motion and complaint.

DISPOSITION

dismissed

CASES CITED

- Rowland v. California Men's Colony, 506 U.S. 194, 196 (1993)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA HAMMOND
DIVISION JERRY A SMITH, Plaintiff, v. Case No. 2:25-CV-531-GSL-AZ MGM PROPERTY
MANAGEMENT LLC, et al., Defendants. OPINION AND ORDER Before the Court is Plaintiff's
Motion to Proceed in Forma Pauperis. [DE 3].

For the reasons below, the Court denies Plaintiff's Motion to Proceed in Forma Pauperis [DE 3] and dismisses the Complaint [DE 1] without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff is granted leave to refile his motion to proceed in forma pauperis using the clerk-supplied IFP form, in accordance with N.D. Ind. L.R. 7-6, and his corrected complaint, by December 25, 2025.

DISCUSSION Ordinarily, a plaintiff must pay a statutory filing fee to bring an action in federal court. 28 U.S.C. § 1914(a). An indigent party may commence an action in federal court, without prepayment of costs and fees, upon submission of an affidavit asserting an inability "to pay such fees or give security therefor." 28 U.S.C. § 1915(a).

Here, not only does Plaintiff's Motion fail to establish that he is unable to prepay the filing fee, but there are additional problems with his request. Plaintiff's own statements regarding his ability to pay are in direct contention. Plaintiff states that in the past 12 months he has had \$0 in income, however, he lists his gross monthly pay as several thousands of dollars between May and November.

[DE 3]. Equally as problematic, Plaintiff identifies himself as "Jerry A. Smith d/b/a 8100 LLC Handy Man Services/Smith and Tills Services." [DE 1]. If Plaintiff is bringing claims on behalf of his "d/b/a," he can be pro se and proceed IFP, but if he is an LLC, he cannot. An LLC must have a lawyer and cannot be IFP b/c "only a natural person may qualify for treatment in forma pauperis under § 1915." *Rowland v. California Men's Colony*, 506 U.S. 194, 196 (1993).

CONCLUSION For both foregoing reasons, Plaintiff's Motion to proceed In Forma Pauperis, [DE 3] is denied, and his Complaint [DE 1] is dismissed. Plaintiff is granted leave to refile his motion to proceed in forma pauperis using the clerk-supplied IFP form, in accordance with N.D. Ind. L.R. 7-6, and his corrected complaint, by December 29, 2025.

The clerk is directed to mail Plaintiff an AO239 form. SO ORDERED. ENTERED: November 25, 2025 /s/ GRETCHEN S. LUND Judge United States District Court