

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Felice Lazae Martin, et al. v. Michael Castillo, et al.

Martin · No. 1:25-cv-01123-KES-CDB · Decided September 8, 2025

SUMMARY

The United States District Court for the Eastern District of California directs Plaintiff Hector Joseph Borges to complete and file a long-form application to proceed in forma pauperis and directs Plaintiff Felice Lazae Martin to provide supplemental information concerning discrepancies in her application. The court also disregards an improper email transmittal, instructs the plaintiffs to stop submitting correspondence through court email addresses, and provides a 21-day deadline to comply or pay the filing fee.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 8, 2025
DOCKET	1:25-cv-01123-KES-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs initiated a civil-rights action, filed an application to proceed in forma pauperis, and sought a temporary restraining order without paying the filing fee. The court addressed the sufficiency of the IFP submissions and plaintiffs' improper email transmittal of court filings.
STANDARD OF REVIEW	The court applied the requirements of 28 U.S.C. § 1915(a) for proceeding in forma pauperis and noted the mandatory screening requirements of 28 U.S.C. § 1915(e)(2).
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Felice Lazae Martin, Hector Joseph Borges v. Michael Castillo, et al.

TOPICS

- civil procedure
- pleadings
- injunctions

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiffs could proceed in forma pauperis when one plaintiff had not submitted a separate application and the other plaintiff's financial information appeared incomplete or inconsistent.
2. Whether the court should accept plaintiffs' email transmittal of pleadings and an asserted emergency motion.
3. What procedural steps plaintiffs were required to take to avoid dismissal for failure to comply with a court order and failure to prosecute.

HOLDINGS

1. When multiple plaintiffs seek to proceed in forma pauperis in one action, each plaintiff must submit a separate application and independently qualify for IFP status.
2. An IFP application must provide sufficiently particular, definite, and certain information for the court to determine whether the applicant is entitled to proceed without prepayment of fees; materially conflicting financial information warrants supplemental information before the court rules on IFP status.
3. The court may disregard a pro se party's email transmittal of pleadings or motions when the party has not complied with the court's local filing and service requirements, and the party must desist from sending such communications to chambers or the court's emergency TRO inbox.

KEY QUOTATIONS

“To proceed in forma pauperis is a privilege not a right.” (at 1)

“Thus, each named plaintiff must submit separate applications to proceed as a pauper before a court will grant multiple plaintiffs in forma pauperis status in one action.” (at 1)

“Plaintiffs are directed to forbear from transmitting email communications or pleadings to either the undersigned’s chambers or the Court’s afterhours TRO email inbox.” (at 2)

FACTUAL BACKGROUND

Felice Lazae Martin and Hector Joseph Borges filed a complaint and sought a temporary restraining order without prepaying the filing fee. Borges did not submit an IFP application. Martin reported average monthly income of \$291 and self-employment but left gross monthly pay blank, while documents attached to the complaint appeared to show monthly rent payments of approximately \$2,270 to \$2,350. Martin also transmitted an ex parte email to the court and chambers with an asserted emergency motion concerning electronic filing and ADA accommodation.

PROCEDURAL HISTORY

Plaintiffs filed a complaint and application for a temporary restraining order on September 4, 2025, through the court's after-hours emergency TRO email inbox. Plaintiff Martin submitted an IFP application, but Plaintiff Borges submitted none. The court ordered Borges to file a long-form IFP application, ordered Martin to provide

supplemental information addressing discrepancies in her financial representations, disregarded the email transmittal, and allowed plaintiffs 21 days either to comply or pay the filing fee.

DISPOSITION

other

CASES CITED

- Remmert v. Newsome, No. 1:23-CV-00050-ADA-HBK, 2023 WL 1806277, at *1 (E.D. Cal. Jan. 31, 2023)
- Liang v. Kallis, No. 2:21-cv-0595-JAM-CKD, 2021 WL 1721668, at *1 (E.D. Cal. Apr. 30, 2021)
- Chavez v. Loma Linda Med. Ctr., No. 5:22-cv-01268-SSS (SHKx), 2022 WL 19827571, at *1-2 (C.D. Cal. Aug. 1, 2022)
- Anderson v. California, No. 10 CV 2216 MMA (AJB), 2010 WL 4316996, at *1 (S.D. Cal. Oct. 27, 2010)
- Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965)
- Lopez v. Smith, 203 F.3d 1122, 1129 (9th Cir. 2000)
- Calhoun v. Stahl, 254 F.3d 845 (9th Cir. 2001)

OPINION

Martin

PER CURIAM.

1 2 3 4 5 6 7 8

UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 FELICE LAZAE MARTIN, et al., Case No. 1:25-cv-01123-KES-CDB 12 Plaintiffs,

ORDER DIRECTING PLAINTIFF HECTOR

JOSEPH BORGES TO FILE LONG FORM

13 v. APPLICATION TO PROCEED IN FORMA

PAUPERIS

14 MICHAEL CASTILLO, et al.,

ORDER DIRECTING PLAINTIFF FELICE

15 Defendants. LAZAE MARTIN TO FILE

SUPPLEMENTAL INFORMATION IN

16 SUPPORT OF APPLICATION TO

PROCEED IN FORMA PAUPERIS

17 (Doc. 2) 18

ORDER DISREGARDING PLAINTIFFS’

19 EMAIL TRANSMITTAL AND DIRECTING

PLAINTIFF TO DESIST FROM

20 TRANSMITTAL OF IMPROPER
CORRESPONDENCE VIA COURT EMAIL
21 ADDRESSES

22 21-DAY DEADLINE

23 Clerk of the Court to Forward AO 239 Form 24 25 Plaintiffs Felice Lazae Martin and Hector Joseph Borges initiated this action with the filing 26 of a complaint and application for temporary restraining order (“TRO”) on September 4, 2025, 27 via the Court’s email inbox for afterhours emergency TRO submissions. (Docs. 1, 3). Plaintiffs did not pay the Court’s filing fee. 1 Pending before the Court is Plaintiff Martin’s application to proceed in forma pauperis 2 pursuant to 28 U.S.C. § 1915, transmitted to the Court along with Plaintiff’s other filings via its 3 email inbox for afterhours emergency TRO submissions. (Doc. 2). 4 Separately pending before the Court is Plaintiff Martin’s transmittal via email to the Court 5 and to chambers of the presiding district judge and the undersigned on September 5, 2025, (1) an 6 ex parte communication, and (2) a purported “Emergency Motion for E-Filing Permission and 7 ADA Accommodation” in which Plaintiffs seek authorization to file unidentified documents 8 electronically through the Court’s electronic case management/filing system (“CM/ECF”). 9 The Court will address each matter in turn. 10 Application to Proceed In Forma Pauperis 11 With the exception of habeas corpus petitions, all parties initiating civil actions in a district 12 court of the United States must pay a filing fee of \$350.00 and an additional administrative fee 13 of \$55.00 for a total filing fee of \$405.00. See 28 U.S.C. §§ 1914(a) & (c); E.D. Cal. Local Rule 14 121(c). “A civil action may proceed despite a plaintiff’s failure to prepay the entire fee only if 15 the plaintiff is granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).” 16 *Remmert v. Newsome*, No. 1:23-CV-00050-ADA-HBK, 2023 WL 1806277, at *1 (E.D. Cal. Jan. 17 31, 2023). “In addition, although only one filing fee needs to be paid per case, if multiple 18 plaintiffs seek to proceed in forma pauperis, each plaintiff must qualify for IFP status. Thus, 19 each named plaintiff must submit separate applications to proceed as a pauper before a court will 20 grant multiple plaintiffs in forma pauperis status in one action.” *Id.* (citing *Liang v. Kallis*, No. 21 2:21-cv-0595-JAM-CKD, 2021 WL 1721668, *1 (E.D. Cal. April 30, 2021)); accord *Chavez v. 22 Loma Linda Med. Ctr.*, No. 5:22-cv-01268-SSS (SHKx), 2022 WL 19827571, at *1-2 (C.D. Cal. 23 Aug. 1, 2022); *Anderson v. California*, No. 10 CV 2216 MMA (AJB), 2010 WL 4316996, at *1 24 (S.D. Cal. Oct. 27, 2010). 25 “To proceed in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 26 116 (9th Cir. 1965). A plaintiff is required to assert indigence “with some particularity, 27 definiteness and certainty” before in forma pauperis status can be granted by the Court. United 1 Here, Plaintiff Borges has not filed an application to proceed in forma pauperis. In the 2 absence of separate applications from each Plaintiff, the Court cannot determine whether each 3 Plaintiff qualifies for in forma pauperis status. See *Whitford v. Lassen Cnty., California*, No. 4 2:24-CV-01650-TLN-CSK, 2024 WL 5301756, at *1 (E.D. Cal. Dec. 26, 2024) (“For Plaintiffs 5 to collectively proceed IFP in this action, each plaintiff must submit his or her own

separate, 6 signed, and complete IFP application.”). 7 Further, in her application, Plaintiff Martin represents an average monthly income amount 8 of \$291.00 during the past 12 months and an employment history of “Self-Employed,” with no 9 amount provided under “[g]ross monthly pay.” (Doc. 2 at 1-2). However, it appears to the Court 10 that this may contradict representations made in the complaint. Namely, Plaintiffs attach a 11 document to the complaint appearing to show four months of rent payments, from July 2024 to

12 October 2024, in the amounts of \$2,350.00, \$2,350.00, \$2350.00, and \$2,270.00, respectively, 13 well above the average income represented by Plaintiff Martin. (Doc. 1 at 105). 14 As such, the application demonstrates that Plaintiff’s income and resources could be above 15 the poverty threshold and the information provided is insufficient for the Court to determine 16 whether Plaintiffs are entitled to proceed without prepayment of fees in this action. Thus, the 17 Court will direct (1) Plaintiff Borges to complete and file an Application to Proceed in District 18 Court Without Prepaying Fees or Costs (Long Form)—AO 239, and (2) Plaintiff Martin to file a 19 supplemental report explaining the discrepancies noted above by the Court. 20 If Plaintiffs are unwilling to complete, sign, and file said documents, Plaintiffs must pay 21 the filing fee in full. 22 Plaintiffs’ Email Transmittal 23 Turning to Plaintiff Martin’s email transmittal with attachments to the Court dated

24 September 5, 2025, first, the Court declines to accept the transmittal. See Local Rules 133(b)(2) 25 & 183 (requiring pro se parties to serve and file paper documents in accordance with the Court’s 26 Local Rules). Plaintiffs are directed to forbear from transmitting email communications or 27 pleadings to either the undersigned’s chambers or the Court’s afterhours TRO email inbox. 1 § 1915(e)(2), the Court conducts an initial review of all pro se complaints where the plaintiff 2 proceeds in forma pauperis to determine whether the complaint is legally sufficient under the 3 applicable pleading standards. See *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (“section 4 1915(e) applies to all in forma pauperis complaints, not just those filed by prisoners”); see also 5 *Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001) (“the [screening] provisions of 28 U.S.C. § 6 1915(e)(2)(B) are not limited to prisoners”) (per curiam). The Court must dismiss a complaint, 7 or portion thereof, if the Court determines that the complaint is legally frivolous or malicious, 8 fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant 9 who is immune from such relief. 28 U.S.C. § 1915(e)(2). 10 Third, the Court is cognizant that Plaintiffs have moved for a TRO and assert emergency 11 circumstances warrant expedited treatment of their motion. The Court has begun its review of 12 Plaintiffs’ pleadings (notwithstanding the unresolved status of Plaintiffs’ applications to proceed 13 in forma pauperis, supra) and will issue appropriate rulings in due course. As of the date of this 14 Order, the undersigned is referred or presides over more than 460 active civil cases in various 15 states of litigation. The Court regrets the delays in the litigation of this action that are unavoidable 16 given the tremendous judicial resource emergency experienced throughout this District. 17 Finally, the Court admonishes Plaintiffs that no attorney may participate in this action 18 unless the attorney

has appeared as an attorney of record (see Local Rule 182) and that an attorney's unauthorized practice in violation of this Court's Local Rules risks the imposition of sanctions (see Local Rule 184). Conclusion and Order Based upon the foregoing, it is HEREBY ORDERED that:

1. Plaintiffs' email transmittal to the Court with attachments, dated September 5, 2025, is DISREGARDED.

2. The Clerk of the Court is DIRECTED to forward to Plaintiff Hector Joseph Borges an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)—AO 239; and

3. Within 21 days of service of this order:

a. Plaintiff Borges SHALL complete and file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)—AO 239; and

b. Plaintiff Martin SHALL file a supplemental report explaining the discrepancies noted above regarding potentially conflicting representations made in the complaint (Doc. 1) and in her in forma pauperis application (Doc. 2).

4. Plaintiffs may, in the alternative, pay the \$405.00 filing fee by that same deadline. Any failure by Plaintiffs to timely comply with this order will result in a recommendation that the action be dismissed for failure to comply with a court order and failure to prosecute the action.

[T IS SO ORDERED.]

Dated: September 8, 2025

UNITED STATES MAGISTRATE JUDGE