

**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.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 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 19 attorney's unauthorized practice in violation of this Court's Local Rules risks the imposition of 20 sanctions (see Local Rule 184).

21 Conclusion and Order 22 Based upon the foregoing, it is HEREBY ORDERED that: 23 1. Plaintiffs' email transmittal to the Court with attachments, dated September 5, 24 2025, is DISREGARDED. 25 2. The Clerk of the Court is DIRECTED to forward to Plaintiff Hector Joseph Borges 26 an Application to Proceed in District Court Without Prepaying Fees or Costs (Long 27 Form)—AO 239; and 1 3.

Within 21 days of service of this order: 2 a. Plaintiff Borges SHALL complete and file an Application to Proceed in 3 District Court Without Prepaying Fees or Costs (Long Form)—AO 239; 4 and 5 b. Plaintiff Martin SHALL file a supplemental report explaining the 6 discrepancies noted above regarding potentially conflicting representations 7 made in the complaint (Doc.

1) and in her in forma pauperis application 8 (Doc. 2). 9 4. Plaintiffs may, in the alternative, pay the \$405.00 filing fee by that same deadline. 10 Any failure by Plaintiffs to timely comply with this order will result in a 11 |recommendation that the action be dismissed for failure to comply with a court order and 12 | failure to prosecute the action. 13 [T IS SO ORDERED.

14) Dated: _ September 8, 2025 | hr 15 UNITED STATES MAGISTRATE JUDGE 16 17 18 19 20 21 22 23 24 25 26 27 28