

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Odessa Sills v. First Student Inc.

Sills · No. 25-CV-785-JPS · Decided February 3, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin denies Odessa Sills’s motion to proceed in forma pauperis in her Title VII retaliation action against First Student Inc. The court finds that Plaintiff is able to pay the filing fee and orders her to pay the full fee by March 5, 2026, warning that failure to do so will result in dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	J.P. Stadtmueller
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	February 3, 2026
DOCKET	25-CV-785-JPS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a Title VII retaliation action and moved to proceed in forma pauperis. After requiring an amended complaint to correct pleading deficiencies, the court considered and denied the in forma pauperis motion.
STANDARD OF REVIEW	The court applied the statutory in forma pauperis inquiry under 28 U.S.C. § 1915, considering both the plaintiff's ability to pay and whether the action should be dismissed under § 1915(e)(2).
PRECEDENTIAL VALUE	Unknown
PARTIES	Odessa Sills v. First Student Inc.

TOPICS

- civil procedure
- title vii
- retaliation
- subject matter jurisdiction
- pleadings

PRACTICE AREAS

- Civil procedure
- Employment law
- Civil rights

QUESTIONS PRESENTED

1. Whether Sills demonstrated sufficient indigence to proceed without prepaying the filing fee under 28 U.S.C. § 1915(a).
2. Whether denial of in forma pauperis status required dismissal of the action or instead required payment of the filing fee before the case could proceed.

HOLDINGS

1. Sills was not indigent because her reported monthly income exceeded her expenses by at least \$1,130, leaving her able to pay the one-time \$405 filing fee.
2. Denial of in forma pauperis status does not itself terminate the action; the plaintiff must pay the required filing fee for the case to proceed.

KEY QUOTATIONS

“To determine whether it may authorize a litigant to proceed in forma pauperis, the Court engages in a two-part inquiry.” (at 2)

“The Court finds that Plaintiff is able to pay the costs of commencing the action.” (at 3)

“Accordingly, IT IS ORDERED that Plaintiff Odessa Sills’ motion to proceed in forma pauperis, ECF No. 2, be and the same is hereby DENIED.” (at 4)

FACTUAL BACKGROUND

Odessa Sills alleged that First Student Inc. violated Title VII by, among other things, retaliating against her. In her sworn application, Sills reported employment income of approximately \$3,200 to \$3,400 per month and monthly expenses of \$2,070. She also stated that several adult and minor family members needed her financial assistance.

PROCEDURAL HISTORY

Sills sued First Student Inc. in May 2025 and moved to proceed without prepaying the filing fee. The court screened the original complaint in September 2025, found significant pleading deficiencies, and ordered an amended complaint. Sills filed an amended complaint in October 2025. The court then denied the in forma pauperis motion, ordered payment of the full filing fee by March 5, 2026, and stated that failure to pay would result in dismissal without prejudice.

DISPOSITION

other

CASES CITED

- *Rodriguez v. Crim. Just. Facility Safety Bldg.*, No. 23-CV-394, 2023 WL 3467565, at *1 (E.D. Wis. Apr. 7, 2023)

- *Nietzke v. Williams*, 490 U.S. 319, 324 (1989)
- *Rodriguez v. Crim. Just. Facility*, No. 23-CV-394-PP, 2023 WL 3467507 (E.D. Wis. May 15, 2023)
- *Floyd v. U.S. Postal Serv.*, 105 F.3d 274, 275-76 (6th Cir. 1997)
- *Mitchell v. Farcass*, 112 F.3d 1483, 1491 n.1 (11th Cir. 1997)
- *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972)
- *Coleman v. Lab. & Indus. Rev. Comm'n of Wisconsin*, 860 F.3d 461, 466 (7th Cir. 2017)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN ODESSA SILLS, Plaintiff, Case No. 25-CV-785-JPS v. FIRST STUDENT INC., ORDER Defendant. 1. INTRODUCTION In May 2025, Plaintiff Odessa Sills (“Plaintiff”) sued Defendant First Student Inc. (“Defendant”), alleging that Defendant violated her rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., by, inter alia, retaliating against her.

ECF No. 1. Plaintiff also moved for leave to proceed in forma pauperis. ECF No. 2. In September 2025, the Court screened Plaintiff’s original complaint and, finding that it contained significant pleading deficiencies, ordered Plaintiff to file a complaint correcting those deficiencies. It deferred ruling on her motion for leave to proceed in forma pauperis.

In October 2025, Plaintiff filed an amended complaint. ECF No. 7. This Order addresses Plaintiff’s motion to proceed in forma pauperis, ECF No. 2. 2. MOTION TO PROCEED IN FORMA PAUPERIS A party proceeding pro se may submit to the court a request to proceed without prepaying the otherwise required filing fees, otherwise known as a motion to proceed in forma pauperis.¹ “The federal in forma pauperis statute, 28 U.S.C. § 1915, is designed to ensure indigent litigants have meaningful access to the federal courts while at the same time prevent indigent litigants from filing frivolous, malicious, or repetitive lawsuits.” *Rodriguez v. Crim.*

Just. Facility Safety Bldg., No. 23-CV-394, 2023 WL 3467565, at *1 (E.D. Wis. Apr. 7, 2023) (citing *Nietzke v. Williams*, 490 U.S. 319, 324 (1989)), report and recommendation adopted sub nom. *Rodriguez v. Crim. Just. Facility*, No. 23-CV-394-PP, 2023 WL 3467507 (E.D. Wis. May 15, 2023).

To determine whether it may authorize a litigant to proceed in forma pauperis, the Court engages in a two-part inquiry. It must examine whether the litigant is able to pay the costs of commencing the action. 28 U.S.C. § 1915(a).

The Court must also examine whether the action “is frivolous or malicious,” “fails to state a claim on which relief may be granted,” or “seeks monetary relief against a defendant who is immune from such relief”; if any of these criteria applies, the Court “shall dismiss the case.” 28 U.S.C. § 1915(e)(2)(B)(i)–(iii). Likewise, “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” FED.

R. CIV. P. 12(h)(3). It follows that a litigant whose complaint does not meet the criteria in 28 U.S.C. § 1915(e)(2) or does not plead claims within the Court's subject matter jurisdiction, and whose case cannot proceed as a result, necessarily 1Although 28 U.S.C. § 1915(a) specifically references "prisoner" litigants, it has been interpreted as providing authority for such requests by both prisoner and non-prisoner pro se litigants alike.

Floyd v. U.S. Postal Serv., 105 F.3d 274, 275–76 (6th Cir. 1997) (superseded by rule on other, inapplicable grounds); see also Mitchell v. Farcass, 112 F.3d 1483, 1491 n.1 (11th Cir. 1997) ("Section 1915(e) applies to all [in forma pauperis] litigants—prisoners who pay fees on an installment basis, prisoners who pay nothing, and nonprisoners in both categories.") (Lay, J., concurring). cannot reap the benefits of proceeding in forma pauperis.

In other words, although in forma pauperis status ought to be granted to those impoverished litigants "who, within the District Court's sound discretion, would remain without legal remedy if such privilege were not afforded to them," Brewster v. N. Am. Van Lines, Inc. 461, F.2d 649, 651 (7th Cir. 1972), a pro se litigant's financial status is only part of the picture in determining whether the litigant's case may proceed without payment of the filing fee.

The Court finds that Plaintiff is able to pay the costs of commencing the action. 28 U.S.C. § 1915(a).² She represents under oath that she is employed, with a monthly income ranging from \$3,200 to \$3,400. ECF No. 2 at 2. Her monthly expenses total \$2,070. Id. at 3. Even taking as true her representation that her three adult grandchildren, eleven grandchildren, and two great grandchildren "all need [her] help," Plaintiff has, at a minimum, \$1,130 per month from which she could help her family members and pay the one-time \$405 filing fee.

Based on the totality of Plaintiff's representations, the Court is not convinced that Plaintiff is indigent. The Court will therefore deny Plaintiff's motion to proceed in forma pauperis, ECF No. 2. Plaintiff must pay the full filing fee on or before March 5, 2026. Upon payment of the filing fee, the Court will screen the operative complaint in accordance with 28 U.S.C. 2Because, if a plaintiff is not indigent, they must pay the filing fee for the case to proceed, the Court ought to address an in forma pauperis motion as early as practicable.

Coleman v. Lab. & Indus. Rev. Comm'n of Wisconsin, 860 F.3d 461, 466 (7th Cir. 2017) ("[A] conclusion that the plaintiff is not indigent does not foreclose further legal proceedings—it just means that the plaintiff must pony up the required filing fee." (citing 28 U.S.C. § 636(b)(1))). § 1915. If the Court does not receive the filing fee by March 5, 2026, the Court will dismiss the case without prejudice.

3. CONCLUSION For the reasons set forth above, the Court denies Plaintiff's motion to proceed in forma pauperis, ECF No. 2. Accordingly, IT IS ORDERED that Plaintiff Odessa Sills' motion to

proceed in forma pauperis, ECF No. 2, be and the same is hereby DENIED. Dated at Milwaukee, Wisconsin, this 3rd day of February, 2026. BY THE COURT: \ \ Se Ree...) J.R.

Stadtraueller U.S. District Judge Page 4 of 4