

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS

Sandy Brietzke and Joshua Brietzke v. Cross County Mortgage, et al.

Brietzke · No. 26-10048-DJC · Decided February 6, 2026

SUMMARY

The United States District Court for the District of Massachusetts dismissed Sandy and Joshua Brietzke’s action without prejudice for failure to comply with a prior order requiring proper applications to proceed in forma pauperis. The court held that Sandy Brietzke’s response and attached affidavit did not satisfy the asset-disclosure requirements of 28 U.S.C. § 1915(a)(1), and that Joshua Brietzke had not signed the filing or submitted his own application.

CASE DETAILS

COURT	United States District Court for the District of Massachusetts
WRITING FOR THE COURT	Denise J. Casper
JURISDICTION	United States District Court for the District of Massachusetts
DECIDED	February 6, 2026
DOCKET	26-10048-DJC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs filed a complaint, a motion for a temporary restraining order, and applications to proceed in forma pauperis. After denying the temporary restraining order and Sandy Brietzke's initial in forma pauperis motion without prejudice, the court ordered plaintiffs to file compliant applications and required Joshua Brietzke to sign the complaint. The court dismissed the action without prejudice after Sandy Brietzke failed to file a new compliant motion and Joshua Brietzke did not sign the response.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Sandy Brietzke, Joshua Brietzke v. Cross County Mortgage, et al.

TOPICS

civil procedure

motions to dismiss

pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed when the plaintiff failed to comply with the court's prior order requiring a compliant motion to proceed in forma pauperis and the other plaintiff failed to sign the required filing.
2. Whether a pro se litigant is excused from complying with the Federal Rules of Civil Procedure and the Local Rules.

HOLDINGS

1. The action must be dismissed without prejudice because Sandy Brietzke failed to file the new motion for leave to proceed in forma pauperis required by the court's prior order, and her response did not satisfy 28 U.S.C. § 1915(a)(1).
2. Although courts construe pro se pleadings liberally, pro se litigants are not excused from complying with the Federal Rules of Civil Procedure or applicable local rules.

KEY QUOTATIONS

“While the Court must construe a pro se litigant’s pleading liberally, pro se litigants are not excused from complying with the Federal Rules of Civil Procedure or the Local Rules of this district.” (Opinion text)

FACTUAL BACKGROUND

Sandy and Joshua Brietzke filed this action together, along with a motion for a temporary restraining order and an application to proceed without prepaying fees or costs. After the court found deficiencies in Sandy Brietzke's initial in forma pauperis application, it ordered her to file a new motion and required Joshua Brietzke to sign the complaint and submit an application under his own signature. Sandy filed a response asserting that she represented both plaintiffs and attaching an affidavit concerning her status, but she did not file the required new motion addressing her assets, and Joshua did not sign the response.

PROCEDURAL HISTORY

The action was initiated in the District of Massachusetts. On January 8, 2026, the court denied the motion for a temporary restraining order and Sandy Brietzke's initial in forma pauperis motion without prejudice, directing her to file a new compliant motion and directing Joshua Brietzke to sign the complaint and file his own application. Sandy Brietzke filed a response but no new in forma pauperis motion, and Joshua Brietzke did not sign the response. The court dismissed the action without prejudice for failure to comply with the prior order.

DISPOSITION

dismissed

CASES CITED

- Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 205 (1993)
- F.D.I.C. v. Anchor Props., 13 F.3d 27, 31 (1st Cir. 1994)
- Boivin v. Black, 225 F.3d 36, 43 (1st Cir. 2000)

OPINION

Brietzke

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

_____) SANDY BRIETZKE and)

JOSHUA BRIETZKE,)

) Plaintiffs,)) v.) Civil Action No. 26-10048-DJC) CROSS COUNTY MORTGAGE, et al.,))
Defendants.) _____)

ORDER

CASPER, C.J. February 6, 2026 Plaintiffs Sandy and Joshua Brietzke initiated this action by filing a complaint, motion for temporary restraining order and an application to proceed in District Court without prepaying fees or costs (also known as a motion for leave to proceed in forma pauperis). D. 1-3. By Order, dated January 8, 2026, D. 5, the Court denied the motion for temporary restraining order, D. 2, and Sandy Brietzke's motion for leave to proceed in forma pauperis, D. 3, without prejudice. The Court's Order provided that, on or before January 22, 2026, Sandy Brietzke must file a new motion for leave to proceed in forma pauperis, and Joshua Brietzke must sign the complaint and file a motion for leave to proceed in forma pauperis under his own signature. D. 5 at 1-2. On January 22, 2026, Sandy Brietzke filed a response. D. 6. Joshua Brietzke did not sign the response. Id. Sandy Brietzke states that she "represents both Plaintiff's [sic]." Id. at 3. In her response, Brietzke contends that she "should not be charged fees, or costs for the lawful constitutional right to petition this court in this matter." Id. at 2. Sandy Brietzke states that she "moves this Honorable Court to understand and see that the Plaintiff is asking to proceed without court fees." Id. at 1. Sandy Brietzke explains that she already provided her financial situation when she "submitted the original paperwork for suit, [which was accompanied by] an AFFIDAVIT OF TRUTH AND FACTS." Id. at 3 (emphasis in original). She further states that she does "not own anything nor [does she] have assets." Id. at 6. She states that she is "attaching [an] AFFIDAVIT OF TRUST AND STATUS Maxim of Law." Id.; see D. 6-1 at 5-13 (attaching documents including "Affidavit of Trust and Status, Maxim of Law that begins that the affidavit "confirms the status of a living, breathing, sentient living on the land and establishes the highest order authorized identity and identifiers for this being"). Although Sandy Brietzke filed a response to the Court's January 8, 2026 Order, she failed to file a new motion for leave to proceed in forma pauperis. Her response, D. 6, does not satisfy the requirements of 28 U.S.C. § 1915(a)(1) which requires "an affidavit that includes a statement of all assets . . . that the person is unable to pay such fees or give security

therefor.” Id.; see *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 205 (1993) (noting purposes of § 1915(a) affidavit requirement). Although Sandy Brietzke filed her “Affidavit of Trust and Status,” it does not address her assets or the deficiencies in her initial application to proceed in forma pauperis, D. 5 at 1. While the Court must construe a pro se litigant’s pleading liberally, pro se litigants are not excused from complying with the Federal Rules of Civil Procedure or the Local Rules of this district. *F.D.I.C. v. Anchor Props.*, 13 F.3d 27, 31 (1st Cir.1994); see *Boivin v. Black*, 225 F.3d 36, 43 (1st Cir. 2000) (noting that pro se litigants are not exempt from procedural rules). Accordingly, for the failure to comply with the prior Order, D. 5, this action is hereby **DISMISSED WITHOUT PREJUDICE. SO ORDERED.** /s Denise J. Casper
Denise J. Casper Chief United States District Judge