

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Ryan Abair v. Saks Fifth Avenue Retail Company

No. 5:25-cv-00469-CV-SHK, United States District Court for the Central District of California (May 1, 2025)

SUMMARY

The court dismissed the action without prejudice because the plaintiff neither filed a complete request to proceed in forma pauperis nor paid the filing fee. The dismissal also rested on the plaintiff’s failure to comply with the court’s prior order directing her to correct the filing or pay the fee.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Cynthia Valenzuela
JURISDICTION	U.S. District Court
DECIDED	May 1, 2025
DOCKET	5:25-cv-00469-CV-SHK
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court sua sponte dismissed the civil action without prejudice after Plaintiff failed to submit a complete in forma pauperis request, pay the filing fee, and comply with a court order.
PRECEDENTIAL VALUE	Unpublished district court order; limited persuasive value

TOPICS

civil procedure

PRACTICE AREAS

Civil procedure In forma pauperis proceedings Federal filing fees

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice because Plaintiff failed to file a complete in forma pauperis request or pay the required filing fee.
- Whether the action should be dismissed without prejudice because Plaintiff failed to comply with the court's order.

HOLDINGS

1. A civil action may be dismissed without prejudice when the plaintiff neither establishes eligibility to proceed in forma pauperis through a complete request nor pays the required filing fee.
2. A district court may dismiss an action without prejudice when the plaintiff fails to comply with a court order requiring a completed in forma pauperis request or payment of the filing fee.

FACTUAL BACKGROUND

Plaintiff sought to proceed in forma pauperis while asserting that she had been unemployed for years, had no money in her accounts, and had no other source of income. The court found that Plaintiff's request did not explain how she could afford her daily living expenses. After being ordered to submit a completed form and a one-page explanation or pay the filing fee, Plaintiff filed unrelated or insufficient documents instead of complying.

PROCEDURAL HISTORY

Plaintiff submitted a request to proceed in forma pauperis. The court postponed ruling because the request did not explain how Plaintiff could afford living expenses despite claiming prolonged unemployment, no funds in accounts, and no other income, and ordered Plaintiff either to file a completed request with an explanatory statement or pay the filing fee within 30 days. Plaintiff filed several other documents but did not file the required form, provide the requested explanation, or pay the fee, leading to dismissal without prejudice.

DISPOSITION

dismissed

CASES CITED

- GMS Liberty LLC v. Hib, 2018 WL 1150839, at *1 (S.D. Cal. Mar. 2, 2018)
- Holland v. Lake Cnty. Mun. Gov't, 2013 WL 2456105, at *2 (N.D. Ind. June 6, 2013)
- Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir. 1995)
- Roberts v. Soc. Sec. Dep't, 2022 WL 4088755, at *2 (S.D. Cal. Sept. 6, 2022)
- Jeffrey H. v. Comm'r, Soc. Sec. Admin., 2019 WL 2870082, at *2 (D. Or. July 3, 2019)

OPINION

Ryan Abair v. Saks Fifth Avenue Retail Company

PER CURIAM.

JS-6

CIVIL MINUTES – GENERAL

Case No. 5:25-cv-00469-CV-SHK Date: May 1, 2025 Title: Ryan Abair v. Saks Fifth Avenue Retail Company Present: The Honorable CYNTHIA VALENZUELA, U.S. District Judge Jessica Cortes Not Reported Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiff:

Attorneys Present for Defendant: None Present None Present Proceedings (In Chambers): ORDER
DISMISSING CASE FOR FAILING TO
FILE A COMPLETE IN FORMA PAUPERIS
REQUEST OR PAY FILING FEE, AND FOR
FAILING TO FOLLOW COURT ORDER

All parties instituting a civil action, suit, or proceeding in a district court of the United States must pay a filing fee. 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay the filing fee only if the party is granted leave to proceed in forma pauperis under 28 U.S.C. § 1915(a) (1). On March 13, 2025, the Court postponed ruling on Plaintiff's request to proceed in forma pauperis ("Request") because it was incomplete. (Docket Nos. 2, 11). Specifically, the Court noted it was unclear how Plaintiff could afford to live and pay for daily expenses if she has been unemployed for years, has no money in her accounts, and has no other source of income. (Docket No. 11 (citing *GMS Liberty LLC v. Hib*, 2018 WL 1150839, at *1 (S.D. Cal. Mar. 2, 2018) (in forma pauperis status denied because plaintiff failed to explain how he managed to pay for expenses while alleging he had no income of any kind); *Holland v. Lake Cnty. Mun. Gov't*, 2013 WL 2456105, at *2 (N.D. Ind. June 6, 2013))). The Court JS-6

CIVIL MINUTES – GENERAL

Case No. 5:25-cv-00469-CV-SHK Date: May 1, 2025 Title: Ryan Abair v. Saks Fifth Avenue Retail Company directed Plaintiff to either: (1) refile a fully completed Request on the Court's CV- 60 form and file a one-page statement explaining the discrepancy; or (2) pay the full filing fee. (Docket No. 11). The Court warned that if Plaintiff did not comply within 30 days, the case would be dismissed without prejudice. (Id.). Instead of complying, Plaintiff filed a "Request for Set of Interrogatories and Requests for Production from Defendant" (Docket No. 14), "Notice of Correction of Defendant's Name" (Docket No. 15), "Declaration Establishing Amount Due" (Docket No. 16), a four-page "Explanation for Denial or Delay of Fee Waiver" (Docket No. 17), and a sixty-nine page "Declaration Establishing Sum Certain" (Docket No. 18). None of the documents explain how Plaintiff can afford to live and pay for expenses if she has been unemployed, has no money in her accounts, and has no other source of income. (Docket No. 11). Additionally, Plaintiff never refiled her Request on the Court's CV-60 form, as directed. (Id.). Accordingly, this action is DISMISSED without prejudice for failing to file a complete Request or pay the filing fee, and for failing to comply with the Court's Order. See, e.g., *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995); *Roberts v. Soc. Sec. Dep't*, 2022 WL 4088755, at *2 (S.D. Cal. Sept. 6, 2022) (action may be dismissed without prejudice where plaintiff fails to establish in forma pauperis status and does not pay required filing fee); *Jeffrey H. v. Comm'r, Soc. Sec. Admin.*, 2019 WL 2870082, at *2 (D. Or. July 3, 2019) (dismissing for failing to prosecute and comply with court orders where plaintiff failed to follow scheduling rules and order). All other pending matters are TERMINATED. IT IS SO ORDERED.

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