

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**CHANDRA L. BUFFINGTON,**

**Plaintiff,**

**v.**

**UNIVERSITY OF KANSAS HOSPITAL,**

**Defendant.**

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**Case No. 11-2566-CM-JPO**

**MEMORANDUM AND ORDER**

Plaintiff Chandra Buffington filed a motion to proceed without payment of fees (Doc. 2). Magistrate Judge James O'Hara issued a Report and Recommendation denying plaintiff's motion (Doc. 4). Plaintiff timely filed an objection that explained that since the Report and Recommendation issued, she lost her job (Doc. 6). But plaintiff did not attach an updated affidavit of financial status to her objections attesting that she has no income. Therefore, this court ordered plaintiff to submit a current affidavit of financial status within ten days and warned her that failure to comply with this order would likely result in the court ruling on her objection based on her original affidavit (Doc. 7). Plaintiff did not submit a current affidavit of financial status within the required time, so the court rules on plaintiff's objection based on her original affidavit.

Upon a motion, this court may grant plaintiff permission to proceed without prepayment of fees. 28 U.S.C. § 1915(a). To succeed on this motion, plaintiff must show "a financial inability to pay the required filing fees[.]" *Lister v. Dep't of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). To make this determination, the court conducts a *de novo* review "of those portions of the report or specified proposed findings or recommendations to which objection is made," 28 U.S.C.

§ 636(b)(1)(C), and considers “relevant evidence of record and not merely review of the magistrate judge’s recommendation,” *In re Griego*, 64 F.3d 580, 584 (10th Cir. 1995).

The court concludes that plaintiff fails to show that she is unable to pay the required filing fees. Rather, based on the information before the court, plaintiff is employed by the University of Kansas Medical Center. She owns property (valued at \$35,000) and a car outright. She has no dependents, and her monthly expenses are less than her income. Accordingly, plaintiff has the financial resources to pay the court’s filing fees.

The court, therefore, overrules plaintiff’s objection to the Report and Recommendation (Doc. 6), adopts the Report and Recommendation (Doc. 4), and denies plaintiff’s motion to proceed without payment of fees (Doc. 2). The court further orders plaintiff to pay the required filing fee within 60 days of this order. She may make this payment in two equal installments of \$175.00. Failure to make full payment by that date will result in dismissal of this action without prejudice to refiling.

**IT IS THEREFORE ORDERED** that plaintiff’s Objection To Report and Recommendation (Doc. 6) is overruled.

**IT IS FURTHER ORDERED** that Magistrate Judge O’Hara’s Report and Recommendation (Doc. 4) is adopted.

**IT IS FURTHER ORDERED** that plaintiff’s Motion to Proceed Without Payment of Fees (Doc. 2) is denied. Plaintiff is ordered to pay the required filing fee within 60 days of this order. She may make this payment in two equal installments of \$175.00. Failure to make full payment by that date will result in dismissal of this action without prejudice to refiling.

Dated at this 21st day of November, 2011, at Kansas City, Kansas.

s/ Carlos Murguia  
**CARLOS MURGUIA**  
United States District Judge