

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

JOSEPH H. SCHROEDER II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 15-1178-EFM-KGG
	)	
MARK KAHRS,	)	
	)	
Defendant.	)	
_____	)	

**MEMORANDUM & ORDER ON  
MOTION TO PROCEED WITHOUT PREPAYMENT OF FEES**

In conjunction with his federal court Complaint alleging violations of the Fair Debt Collection Practices Act (Doc. 1), Plaintiff Joseph H. Schroeder II has filed a Motion to Proceed Without Prepayment of Fees (*IFP* Application, Doc. 3, sealed), with an accompanying Affidavit of Financial Status (Doc. 3-1, sealed). Having reviewed Plaintiff's motion, as well as his financial affidavit and Complaint, the Court **GRANTS** Plaintiff's motion.

Under 28 U.S.C. § 1915(a), a federal court may authorize commencement of an action without prepayment of fees, costs, etc., by a person who lacks financial means. 28 U.S.C. § 1915(a). In so doing, the court considers the affidavit of financial status included with the application. *See id.*

There is a liberal policy toward permitting proceedings *in forma pauperis*

when necessary to ensure that the courts are available to all citizens, not just those who can afford to pay. *See generally, Yellen v. Cooper*, 828 F.2d 1471 (10<sup>th</sup> Cir. 1987). In construing the application and affidavit, courts generally seek to compare an applicant's monthly expenses to monthly income. *See Patillo v. N. Am. Van Lines, Inc.*, No. 02-2162, 2002 WL 1162684, at \*1 (D.Kan. Apr. 15, 2002); *Webb v. Cessna Aircraft*, No. 00-2229, 2000 WL 1025575, at \*1 (D.Kan. July 17, 2000) (denying motion because "Plaintiff is employed, with monthly income exceeding her monthly expenses by approximately \$600.00").

In his supporting financial affidavit, Plaintiff indicates he is 50 years old and single, with three dependents. (Doc. 3-1, sealed, at 1-2.) The listed "dependents" are, however, all 21 years of age or older. As such, they do not qualify as legal dependents, absent special circumstances, regardless of Plaintiff's willingness to provide them with financial assistance.

Plaintiff is currently employed as a machinist, making a respectable monthly wage. (*Id.*, at 2.) He does not own real property, but lists two modest automobiles, on which he makes monthly payment. (*Id.*, at 3-4.) He lists a small amount of cash on hand, and has received unemployment benefits and worker's compensation payments during the past 12 months. (*Id.*, at 5.) He lists typical monthly bills (absent grocery expense) as well as numerous consumer debts on which he makes

significant monthly payments. (*Id.*) He has filed for bankruptcy. (*Id.*, at 6.)

Considering all of the information contained in the financial affidavit, Plaintiff has reasonable monthly expenses as well as significant financial obligations when compared to his monthly income. The Court finds that Plaintiff has established that his access to the Court would be significantly limited absent the ability to file this action without payment of fees and costs. The Court **GRANTS** Plaintiff leave to proceed *in forma pauperis* and directs that this case be filed without payment of a filing fee.

**IT IS THEREFORE ORDERED** that Plaintiff's motion for *IFP* status (Doc. 3) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Clerk's office shall issue summons in this case.

**IT IS SO ORDERED.**

Dated at Wichita, Kansas, on this 12<sup>th</sup> day of June, 2015.

S/ KENNETH G. GALE

KENNETH G. GALE

United States Magistrate Judge