

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

FRANCESCA AMATO,

Plaintiff,

1:21-cv-00860
(GLS/TWD)

v.

ANTHONY McGINTY,

Defendant.

APPEARANCES:

FRANCESCA AMATO

Plaintiff, *pro se*

THÉRÈSE WILEY DANCKS, United States Magistrate Judge

ORDER

Currently before the Court is Plaintiff's second application to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915. (Dkt. No. 9.) By Order filed October 28, 2021, this Court denied Plaintiff's original IFP application as incomplete. (Dkt. No. 8.)

A court may grant IFP status if a party "is *unable* to pay" the standard fee for commencing an action. 28 U.S.C. § 1915(a)(1) (emphasis added). Plaintiff's second IFP application is also incomplete and does not cure the deficiencies identified in the previous Order. To that end, Plaintiff reports she is currently unemployed and reported \$21,000 in unemployment compensation in 2020. Plaintiff states she is no longer receiving unemployment benefits ("now expired") and is "slowly building" and "currently" runs her non-profit organization, Punished 4 Protecting, Inc., and indicates "no salary first year of nonprofit." Plaintiff has not answered Question 5. As to Question 6, she states she "supports" her son, C.A.B., but omits "how much" she "contributes" to his support.

Therefore, Plaintiff's second IFP application (Dkt. No. 9) is denied as incomplete. Consequently, no determination as to the sufficiency of the amended complaint (Dkt. No. 6) has been made at this time.

In order for the Court to properly evaluate Plaintiff's financial status, and because Plaintiff has previously submitted two incomplete IFP applications (Dkt. Nos. 2, 9), Plaintiff must complete AO Form 239 (IFP – Long Form), which includes specific categories of both income and expenses to assist Plaintiff in providing complete responses.¹

WHEREFORE, it is hereby

ORDERED that Plaintiff's second IFP application (Dkt. No. 9) is **DENIED WITHOUT PREJUDICE**, and it is further

ORDERED that Plaintiff's request to file electronically is **DENIED WITHOUT PREJUDICE**; and it is further

ORDERED that the Clerk is directed to provide Plaintiff with the AO Form 239 so that she may properly apply for IFP status, and it is further

ORDERED that by **TUESDAY, DECEMBER 7, 2021**, Plaintiff must file a properly completed form AO 239 (IFP – Long Form) to proceed IFP, with a full disclosure of her assets, income, and expenses, including any money she has in savings or checking accounts or in cryptocurrency, as indicated in the form provided or pay the \$402.00 filing fee; and it is further

ORDERED that Plaintiff's failure to comply with the terms of this Order will result in an administrative closure of this case without further notice; and it is further

¹ A copy of AO Form 239 (IFP – Long Form) is attached to this Order.

ORDERED that the Clerk provide Plaintiff a copy of this Order at the address listed on the docket and to mail a one time-courtesy copy to the confidential and redacted address provided by Plaintiff in Dkt. No. 9.²

IT IS SO ORDERED.

Dated: November 17, 2021
Syracuse, New York



Therèse Wiley Dancks
United States Magistrate Judge

² The Court notes the mailing of Dkt. No. 8 was returned to the Court as undeliverable. (Dkt. No. 10.) Under this Court's local rules of practice, an unrepresented litigant is under a duty to inform the Court of any address changes IN WRITING. *See* N.D.N.Y. L.R. 10.1(c)(2). For the orderly disposition of cases, it is essential that litigants honor their continuing obligation to keep the Court informed of address changes. In an extraordinary display of special solicitude to Plaintiff as a *pro se* litigant, the Clerk is also directed to mail a one-time courtesy copy of this Order at the confidential and redacted address provided by Plaintiff in Dkt. No. 9.

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

UNITED STATES DISTRICT COURT

for the
Northern District of New York

FRANCESCA AMATO)

Plaintiff/Petitioner)

v.)

MCGINTY)

Defendant/Respondent)

Civil Action No. 1:21-CV-869 (GLS/TWD)

**APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Long Form)**

Affidavit in Support of the Application

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.

Signed: _____

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: _____

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property <i>(such as rental income)</i>	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
Total monthly income:	\$	0.00	\$	0.00
	\$	0.00	\$	0.00
	\$	0.00	\$	0.00
	\$	0.00	\$	0.00

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ _____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Assets owned by you or your spouse	
Home (<i>Value</i>)	\$
Other real estate (<i>Value</i>)	\$
Motor vehicle #1 (<i>Value</i>)	\$
Make and year:	
Model:	
Registration #:	
Motor vehicle #2 (<i>Value</i>)	\$
Make and year:	
Model:	
Registration #:	
Other assets (<i>Value</i>)	\$
Other assets (<i>Value</i>)	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)	Relationship	Age

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$	\$
Home maintenance <i>(repairs and upkeep)</i>	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation <i>(not including motor vehicle payments)</i>	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$	\$
Installment payments		
Motor vehicle:	\$	\$
Credit card <i>(name):</i>	\$	\$
Department store <i>(name):</i>	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Regular expenses for operation of business, profession, or farm (<i>attach detailed statement</i>)	\$	\$
Other (<i>specify</i>):	\$	\$
Total monthly expenses:	\$	\$
	0.00	0.00

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?
 Yes No If yes, describe on an attached sheet.
10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit? Yes No
If yes, how much? \$ _____
11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.
12. Identify the city and state of your legal residence.

Your daytime phone number: _____

Your age: _____ Your years of schooling: _____