



poisoned milk in violation of his Eighth Amendment right. (*Id.*) To compensate him for this violation, Plaintiff requests \$100 million in damages. (*Id.* at PageID 3.)

### **STANDARD OF REVIEW**

Generally, any person who files a civil action in federal court must pay the applicable filing fees. *See* 28 U.S.C. § 1914(a). But, a prisoner may avoid prepaying the applicable filing fees by filing a Motion to Proceed *in forma pauperis*. *See Timmons v. Shelby Cnty.*, 2013 WL 12131325, at \*1–2 (W.D. Tenn. 2013). To proceed *in forma pauperis* is to proceed “without prepayment of fees or security therefor, by a person that . . . is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). That being said, § 1915(a)(1) merely provides the prisoner the opportunity to make a “downpayment” of a partial filing fee and pay the remainder in installments. *See Timmons*, 2013 WL at \*2 (“When an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan. Prisoners are no longer entitled to a waiver of fees and costs.”) (quoting *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)) *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Some prisoners, however, cannot proceed *in forma pauperis*. According to § 1915(g):

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

§ 1915(g).

Because Plaintiff falls under § 1915(g)'s three-strike rule the Court will only allow him to proceed *in forma pauperis* if he is in “imminent danger of serious physical injury.”<sup>1</sup> § 1915(g). The Court assesses whether Plaintiff is in imminent danger at the time that Plaintiff filed his Complaint. *See Vandiver v. Vasbinder*, 416 F. App'x 560, 561–62 (6th Cir. 2011).

### **DISCUSSION**

Plaintiff asserts that he is in imminent danger of serious physical injury because (1) Defendant Prairie Farms allegedly poisons his milk with (2) Defendants Tennessee and Shelby County's knowing consent. (ECF No. 1 at PageID 2.) This is a completely baseless claim to which Plaintiff offers zero evidence. Instead, his Complaint appears to rehash one of his favorite allegations—that his food is being poisoned. *See Benson v. State of Tennessee, et al.*, No. 2:16-cv-02214-SHL-dkv (W.D. Tenn. 2016) (*in forma pauperis* status denied for failure to plead imminent danger); *Benson v. Shelby County, et al.*, No. 2:14-cv-02314-JDT-tmp (W.D. Tenn. 2014) (same).

Because Plaintiff's Complaint solely concerns Defendant Prairie Farms' allegedly poisoned milk, and because this claim is wholly conclusory, it cannot survive § 1915(g)'s “imminent danger” requirement. § 1915(g). “Allegations that are conclusory, ridiculous, or clearly baseless are . . . insufficient for purposes of the imminent-danger exception.” *Taylor v. First Med. Mgmt.*, 508 F. App'x 488, 492 (6th Cir. 2012). The Court, thus, has no choice but to find that Plaintiff “failed to plead facts supporting a finding of imminent danger on the

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<sup>1</sup> *See Benson v. Luttrell, et al.*, No. 08-2825-JPM-dkv (W.D. Tenn. Jan. 9, 2009) (dismissed for failure to state a claim), *aff'd*, No. 09-5145 (6th Cir. Nov. 4, 2009); *Benson v. Luttrell, et al.*, No. 07-2790-SHM (W.D. Tenn. Sept. 11, 2008) (dismissed for failure to state a claim), *appeal dismissed*, No. 08-6277 (6th Cir. July 20, 2009), *cert. denied*, 130 S. Ct. 411 (2009); and *Benson v. Luttrell, et al.*, No. 04-2507-JPM-tmp (W.D. Tenn. Oct. 26, 2004) (dismissed for failure to state a claim).

date that he filed his complaint.” *Id.* at 492–93. As a result, he must pay the \$400 filing fee under § 1914(a)<sup>2</sup>. § 1914(a).

### CONCLUSION

Plaintiff’s Motion for Leave to Proceed *in forma pauperis* is DENIED. Plaintiff must remit the entire \$400 filing fee within thirty (30) days or his claim will be dismissed without prejudice. Furthermore, the Court’s ruling on this Motion flows to all subsequent motions that Plaintiff filed.

Plaintiff filed numerous crossclaims and motions to amend. (ECF Nos. 5–6, 8, 10, 12–13, 15.) He also filed motions for a speedy preliminary injunction/restraining order, speedy trial, appointment of counsel, copies of documents, suppression of evidence, enjoinder of information, transfer to another prison, and speedy intervention. (ECF Nos. 3, 5, 8–9, 16, 18, 21, 24.) Until Plaintiff pays the applicable filing fee, these motions are premature. They are thus DENIED without prejudice. Plaintiff is also PROHIBITED from filing further motions and documents in this action until the filing fee is remitted in full. The Clerk is directed to file no further motions or documents in this action until the full filing fee is received.

**SO ORDERED**, this 21st day of May, 2018.

s/ Thomas L. Parker  
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THOMAS L. PARKER  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Section 1914(a) requires a civil filing fee of \$350. § 1914(a). But, pursuant to § 1914(b), “[t]he clerk shall collect from the parties such additional fees . . . as are prescribed by the Judicial Conference of the United States.” The Judicial Conference prescribed an additional administrative fee of \$50 for filing any civil case, except for cases seeking habeas corpus and cases in which the plaintiff is granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. Because the Court is denying Plaintiff’s leave to proceed *in forma pauperis*, Plaintiff is liable for the entire \$400 fee.