

**at; ‘united states district court  
Middle District of Florida  
Tampa Division’**

i; a man; Hamlet [Garcia II];

“a real party in interest”/‘Appellant’/Δ

[-v-]

FEDERAL TRADE COMMISSION, et al;

(wrongdoers/π)

[Civil] Action  
‘No. 8:24-cv-01626-KKM-AAS’

[Judge] Kathryn K. Mizzle  
Hon. Amanda A. Sansone

**[IFP] MOTION**  
(*verified*)

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**MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**<sup>1</sup>

COMES NOW, Hamlet Garcia II, appearing as the Real Party in Interest and Appellant, pursuant to 11th Cir. R. 24-1, Federal Rule of Appellate Procedure 24, Fed. R. Civ. Prod. 17(a), 28 U.S.C. § 1915(a), and controlling Florida law, to respectfully move for leave to proceed in forma pauperis (“IFP”) in this appeal.

This motion is supported by constitutional mandates, Eleventh Circuit precedent, and Florida statutory protections that bar any judicial construct that obstructs access to the courts on the basis of financial status.

<sup>1</sup> Filed under FRAP 24(a) solely as procedural caution; i do not accept the Latin designation “in forma pauperis.” Pursuant to Executive Order 14084, issued on March 1, 2025, English is designated as the official language of the United States.

1                   **I. JURISDICTIONAL MANDATE & PREEMPTIVE STANDING**

2                   **A. Supremacy of Access to the Courts (See Dkt. Nos 159 & 160)**

- 3                   ● The right to petition the judiciary is a fundamental, non-discretionary right
- 4                   under the First and Fourteenth Amendments.
- 5                   ● No person may be denied access based on financial hardship. *Boddie v.*
- 6                   *Connecticut*, 401 U.S. 371 (1971); *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996).
- 7                   ● Any obstruction to access constitutes an unconstitutional financial barrier
- 8                   under *Griffin v. Illinois*, 351 U.S. 12 (1956).
- 9                   ● Florida Constitution, Article I, § 21 expressly guarantees open courts and
- 10                  prohibits financial barriers that restrict access to justice.

11                  **B. Non-Discretionary Judicial Obligation to Grant IFP Status**

- 12                  ● 28 U.S.C. § 1915(a)(1) mandates that any litigant who lacks financial means
- 13                  “shall” be granted leave to proceed without prepayment of fees.
- 14                  ● A court may not deny an IFP motion arbitrarily; its discretion is limited to
- 15                  reviewing the sufficiency of the financial declaration, not to obstruct
- 16                  fundamental rights. *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992).
- 17                  ● The Eleventh Circuit has repeatedly recognized that indigent appellants are
- 18                  entitled to IFP status absent a finding of bad faith. See *Attwood v. Singletary*,
- 19                  105 F.3d 610 (11th Cir. 1997).
- 20

- 1 ● Florida Statutes § 57.085(6) prohibits courts from dismissing claims solely due  
2 to inability to pay.

3  
4 **II. FINANCIAL HARDSHIP & UNCONSTITUTIONAL OBSTRUCTION**

- 5 ● Appellant lacks the financial means to prepay filing fees and litigation  
6 expenses.
- 7 ● No adequate alternative resources exist to fund litigation (attached Affidavit of  
8 Financial Hardship confirms zero income, no access to funds, and no financial  
9 assistance).
- 10 ● Supreme Court has recognized that imposing a financial barrier on fundamental  
11 rights triggers heightened scrutiny under the Due Process and Equal Protection  
12 Clauses. *Harper v. Virginia Bd. of Elections*, 383 U.S. 663 (1966).

13 **III. UNLAWFUL REFUSAL OF PREVIOUS IFP**  
14 **REQUEST & NOTARIZATION OBSTRUCTION**

- 15 ● The district court previously denied Appellant’s IFP request on grounds that it  
16 was not notarized.
- 17 ● This ruling is legally defective: 28 U.S.C. § 1746 states that an affidavit is  
18 valid without notarization when submitted “under penalty of perjury.”
- 19 ● The Eleventh Circuit has affirmed that notarization is NOT required for IFP  
20 declarations under *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305 (2004).

- 1 ● Florida law also explicitly permits unsworn declarations if they contain a  
2 penalty-of-perjury statement. See Fla. Stat. § 92.525(2).

3 Accordingly, the prior denial was a *procedural obstruction* and should be reversed.  
4

#### 5 **IV. PROCEDURAL INTEGRITY & DUE PROCESS DEMAND**

##### 6 **A. Clerk’s Office Failure to Acknowledge Filings [FRCP 60(b)(4)]**

- 7
- 8 ● If the Clerk’s Office fails to process this IFP motion in a timely manner, it  
9 constitutes a jurisdictional defect warranting appellate correction.
  - 10 ● The Eleventh Circuit has held that failure to process filings obstructs appellate  
11 review and violates due process. See *Schiavo v. Schiavo*, 403 F.3d 1223 (2005).

##### 12 **B. Judicial Discretion is Limited by Fundamental Rights**

- 13
- 14 ● Courts may not impose procedural barriers that disproportionately impact  
15 indigent litigants. See *Lewis v. Casey*, 518 U.S. 343, 350 (1996).
  - 16 ● The district court’s failure to recognize IFP status without legal justification is  
17 an appealable error.

#### 18 **V. RELIEF REQUESTED**

19 **WHEREFORE**, Appellant respectfully demands that this [Honorable] Court:  
20

- 1 1. Grant leave to proceed in forma pauperis under FRAP 24(a), 28 U.S.C. §  
2 1915(a)(1), and Eleventh Circuit precedent.
- 3 2. Reverse any prior denial based on improper notarization requirements under  
4 28 U.S.C. § 1746 and Fla. Stat. § 92.525(2).
- 5 3. Issue an injunction prohibiting further obstruction of access based on  
6 financial hardship.
- 7 4. Any other relief deemed just and necessary.

8 Filed & Duly Entered to the Record; <sup>2</sup>

9 /s/ Hamlet Garcia II

Dated: March 11, 2025

10  
11 Real Party in Interest

Propria Persona

12 101 E Olney Ave Unit 330

13 Philadelphia, Pennsylvania

14 E: [HamletGarciaJr@Gmail.com](mailto:HamletGarciaJr@Gmail.com)

15 P: (856) 438-00010

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<sup>2</sup> Filed pursuant to FRAP 24(a) and 28 U.S.C. § 1915(a)(1), ensuring judicial access is not obstructed by financial barriers. Denial based on notarization conflicts with 28 U.S.C. § 1746 and Fla. Stat. § 92.525(2), rendering such refusal legally defective. Federal agencies must ensure English accessibility per Executive Order 13166, and courts must conform accordingly, rejecting procedural constructs that impose Latin designations such as "Forma Pauperis" in derogation of clear constitutional mandates.

**CERTIFICATE OF SERVICE**

In line with Federal Rules of Appellate Procedure (“FRAP”) & Local Rules of the Eleventh Circuit Court (“Local Rules”):

i, Hamlet, certify/verify that on this 11th day of March 2025, a true and correct copy of the foregoing **IFP MOTION** was submitted for electronic filing via the CM/ECF Web Portal, which, pursuant to FRAP 25(d) and Local Rule 25-3 automatically effects service upon all registered counsel and parties of record.

**Verification of Transmission:** The CM/ECF system generated an electronic notification of filing contemporaneously with submission, constituting proof of service upon all parties entitled to notice under the Federal Rules.

If any party is not registered through CM/ECF, a copy of the filing shall be served by [state method, e.g., first-class mail, certified mail, or hand delivery], and a supplemental proof of service shall be filed accordingly.

Duly entered for the record:

*/s/ Hamlet Garcia II*

Real Party in Interest,  
Propria Persona  
Philadelphia, Pennsylvania  
Dated: March 11, 2025<sup>3</sup>



<sup>3</sup> **FRAP 26(a)(1)** – Determines how time is computed (excluding weekends/holidays for deadlines).

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[-v-]

FEDERAL TRADE COMMISSION, et al;

(‘Respondent’/π)

‘No. 8:24-cv-01626-KKM-AAS’

[Judge] Kathryn K. Mizzle

Hon. Amanda A. Sansone

**Affidavit / Declaration  
In Support of Fee Waiver**  
*(verified/declared/affirmed)*

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**STATE OF FLORIDA**

**COUNTY OF HILLSBOROUGH**

i, Hamlet Garcia II, being duly sworn according to law and being over the age of 18, upon my oath depose hereby make this affidavit in support of a fee waiver, and in doing so, assert the following under penalty of perjury:

**I. ECONOMIC HARDSHIP & FINANCIAL INCAPACITY**

- 1. i, the undersigned Affiant, currently experience severe economic distress, rendering it impossible to prepay the costs associated with this litigation.
- 2. My present financial condition is marked by insolvency; i lack income, assets, or resources sufficient to satisfy this Court’s filing fees.

1 3. No available financial assistance exists, as all reasonable attempts to obtain aid  
2 from family, friends, or charitable organizations have been unsuccessful.

3 **II. NON-DISCRETIONARY RIGHT TO ACCESS COURTS**

4 4. Florida Constitution, Article I, § 21, guarantees that "[t]he courts shall be open to  
5 every person for redress of any injury, and justice shall be administered without  
6 sale, denial, or delay."

7 5. Denying this fee waiver obstructs my constitutionally protected right to access  
8 the courts, as established in *Boddie v. Connecticut*, 401 U.S. 371 (1971) and  
9 *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996).

10 6. The Eleventh Circuit has held that financial incapacity cannot preclude judicial  
11 access absent a specific finding of bad faith. *See Attwood v. Singletary*, 105 F.3d  
12 610 (11th Cir. 1997).

13 **III. STATUTORY ENTITLEMENT TO IFP STATUS**

14 7. 28 U.S.C. § 1915(a)(1) mandates that any litigant unable to pay court fees  
15 "shall" be granted leave to proceed in forma pauperis.

16 8. Florida Statutes § 57.085(6) prohibits dismissal of claims solely due to an  
17 inability to pay.

18 9. Florida Statutes § 68.093(2) reaffirms that indigent parties shall not be barred  
19 from litigation based on financial status.  
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**IV. UNLAWFUL OBSTRUCTION: NOTARIZATION NOT REQUIRED**

- 10. The district court previously denied my IFP request, citing the lack of a notary stamp, which is legally unjustified.
- 11. 28 U.S.C. § 1746 states that an affidavit is valid without notarization if declared “under penalty of perjury.”
- 12. The Eleventh Circuit explicitly affirms that notarization is not required for IFP affidavits. See *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305 (11th Cir. 2004).
- 13. Florida Statutes § 92.525(2) explicitly permits unsworn declarations if they contain a penalty-of-perjury statement.
- 14. The prior denial based on notarization was an unlawful procedural obstruction and should be corrected.

**V. ABSENCE OF FRAUD OR MISREPRESENTATION**

- 15. i affirm that all information provided herein is true, accurate, and complete.
- 16. No misrepresentation, fraud, or omission has been made in this affidavit. Any assertion to the contrary would be subject to penalties under Florida Statutes § 837.06, concerning false official statements.

**VI. RELIEF DEMANDED**

**WHEREFORE**, Affiant respectfully demands that this [Honorable] Court:

- 1 A. Grant the waiver of filing fees pursuant to 28 U.S.C. § 1915(a)(1) and Fla. Stat. §
- 2 57.085(6);
- 3 B. Reverse any prior denial based on improper notarization under 28 U.S.C. § 1746
- 4 and Fla. Stat. § 92.525(2);
- 5 C. Issue an injunction prohibiting further obstruction of judicial access based on
- 6 financial hardship.

7 i declare under penalty of perjury that the foregoing is true and correct.

8  
9 **DECLARATION UNDER PENALTY OF PERJURY**

10 Pursuant to 28 U.S.C. § 1746 and Florida Statutes § 92.525(2), i declare under  
11 penalty of perjury, under the laws of the United States of America and the State of  
12 Florida, that the foregoing is true and correct. No notarization is required by law.

13  
14 **Duly executed on the 11th day of March, 2025.**

15 **/s/ Hamlet Garcia II**

16 *Real Party in Interest - Propria Persona*

17 101 E Olney Ave, Unit 330

18 Philadelphia, Pennsylvania

19 E: [HamletGarciaJr@gmail.com](mailto:HamletGarciaJr@gmail.com)

20 P: (856) 438-0100

***FURTHER AFFIANT SAYETH NOT.***