

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE FIRST CIRCUIT

In re: *
*
* BAP NO. MB 97-072
*
BRIAN G. JUNG, *
Debtor *
***** *
*
DANIEL BRITTON, * Case No. 95-18016-WCH
Plaintiff/Appellee *
* ADV. No. 96-1085
v. *
*
*
BRIAN G. JUNG, *
Defendant/Appellant *

Before GOODMAN, LAMOUTTE and DEJESUS, U.S. Bankruptcy Judges.

ORDER

PER CURIAM.

Appellant, Brian G. Jung, filed a Motion for Waiver of Filing Fee asserting that he is indigent and lacks the funds necessary to prosecute appeal of the bankruptcy court's judgment finding an award of damages nondischargeable. We review this motion as a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a) which provides:

Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

While the motion indicates that the appellant has been unemployed for more than a year, the application is deficient and precludes consideration of the request. See generally Martin-Trigona v. Stewart, 691 F.2d 856 (8th Cir. 1982); Bey v. Syracuse University, 155 F.R.D. 413 (N.D.N.Y. 1994). First, an affidavit detailing Mr. Jung's financial condition has not been filed.¹ Second, although appellant states that "[t]his appeal is in the public interest because it raises significant questions of law not yet resolved in this Circuit", Mr. Jung's application contains no explanation of the "nature of the action, defense or appeal" or a statement of his "belief that he is entitled to redress" as required by § 1915(a).

Based on the foregoing reasons, Brian G. Jung's request to proceed on appeal in forma pauperis is DENIED.

SO ORDERED.

On this 19th day of September, 1997.

¹ Although appellant is a debtor in bankruptcy, evidence of his financial condition is not readily available to this court. Even if this information were known, however, there is no indication that the applicant would be exempt from completing the statutory requisites because he is also a debtor in bankruptcy.