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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

KENNETH ALAN SIERRA,

Plaintiff,

v.

CAL TERHUNE, et al.,

Defendants.

NO. 1:01-cv-05131-AWI-GSA-PC

ORDER DISMISSING ACTION FOR  
FAILURE TO PAY THE FILING FEE

Plaintiff is a state prisoner proceeding pro se in this civil rights action. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 12, 2010, an order was entered by the District Court, adopting the findings and recommendations of the Magistrate Judge and revoking Plaintiff's in forma pauperis status pursuant to 28 U.S.C. § 1915(g). On June 1, 2010, Plaintiff filed a motion for reconsideration of the May 12, 2010, order, a motion for extension of time, and a motion for the production of records. Plaintiff also filed a Notice of Appeal of the May 12, 2010, order. On June 8, 2010, the U.S. Court of Appeals entered an order, holding Plaintiff's appeal in abeyance pending the District Court's resolution of the June 1, 2010, motions. On September 15, 2010, an order was entered by the District Court, denying all three of Plaintiff's motions filed on June 1, 2010. On February 9, 2011, the Ninth Circuit panel entered an order finding that Plaintiff could not

1 proceed on appeal in forma pauperis, pursuant to 28 U.S.C. § 1915(g). Plaintiff was directed to  
2 submit the filing fee for his appeal. Despite extensions of time, Plaintiff ultimately failed to pay  
3 the filing fee. On May 10, 2011, the Ninth Circuit dismissed Plaintiff's appeal for failure to  
4 prosecute. Pursuant to Ninth Circuit order, the May 10, 2011, order acts as the mandate of the  
5 court.

6 Because Plaintiff's in forma pauperis status had been revoked, Plaintiff was advised, by  
7 order of May 12, 2011, that this action may only proceed if Plaintiff pays the \$150.00 filing fee,  
8 in full. In that order, Plaintiff was directed to submit the filing fee, in full, within thirty days.  
9 Plaintiff was cautioned that his failure to do so would result in dismissal of this action pursuant  
10 to Local Rule 110 for his failure to prosecute. Plaintiff has not paid the filing fee.

11 Accordingly, IT IS HEREBY ORDERED that this action is dismissed pursuant to Local  
12 Rule 110 for Plaintiff's failure to prosecute. The Clerk is directed to close this case.

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14 IT IS SO ORDERED.

15 Dated: June 20, 2011

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18 CHIEF UNITED STATES DISTRICT JUDGE  
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