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

JAMES E. SMITH,

Plaintiff,

vs.

A.K. SCRIBNER, et al.,

Defendants.

CASE NO. CV F 06-1800 AWI LJO

**ORDER TO: (1) SUBMIT APPLICATION TO
PROCEED IN FORMA PAUPERIS AND
CERTIFIED COPY OF TRUST ACCOUNT;
OR (2) TO PAY \$350 FILING FEE**

Plaintiff James E. Smith (“plaintiff”) is a state prisoner and proceeds pro se in this action. Plaintiff filed his complaint and but failed to file an application to proceed in forma pauperis or to pay the \$350 filing fee. As such, plaintiff must either: (1) file a fully completed Application To Proceed In Forma Pauperis By A Prisoner (“application”) with required information regarding his current prisoner account, required signatures and a certified copy of his prisoner account statement; (2) pay the \$350 filing fee; or (3) inform this Court that he no longer wishes to proceed with this action. *See* 28 U.S.C § 1915(a)(2).

Accordingly, this Court ORDERS:

1. This Court’s clerk to send to plaintiff a form Application To Proceed In Forma Pauperis By A Prisoner; and
2. Plaintiff, no later than January 17, 2007, either to: (1) submit a fully completed Application To Proceed In Forma Pauperis By A Prisoner with all required information,

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signatures and a certified copy of his prisoner account statement for the preceding six-month period; (2) pay the \$350 filing fee for this action; or (3) inform the Court that plaintiff no longer wishes to proceed with this action.

Failure to timely comply with this order will result in a recommendation to dismiss this action. This Court will take no action on plaintiff's claims or papers until he complies with this order.

IT IS SO ORDERED.

Dated: December 15, 2006
66h44d

/s/ Lawrence J. O'Neill
UNITED STATES MAGISTRATE JUDGE