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

JAMES E. SMITH,

CASE NO. CV F 07-0507 LJO WMW

Plaintiff,

**ORDER ON PLAINTIFF'S MOTION FOR
INTERLOCUTORY APPEAL**

vs.

(Doc. 27.)

F.B.I., et al,

Defendants.

_____ /

This Court's January 10, 2008 order dismissed with prejudice this action against defendant Federal Bureau of Investigation ("FBI") and directed the clerk to enter judgment in favor of the FBI and against plaintiff James E. Smith ("Mr. Smith"). The clerk entered a January 10, 2008 judgment against Mr. Smith, who has pending claims against other defendants. Mr. Smith filed his January 25, 2008 motion for appeal from an interlocutory order ("January 25 motion").

F.R.Civ.P. 54(b) addresses judgment involving multiple parties and provides: "When an action presents more than one claim for relief . . . or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay."

This Court determined that there was no just reason to delay for entry of judgment in the FBI's favor. Based on its requested relief, this Court construes Mr. Smith's January 25 motion as a notice of appeal of the January 10, 2008 judgment. As such, this Court DIRECTS the clerk to treat the January

1 25 motion as a notice of appeal and prepare an appeal of the January 10, 2008 judgment.

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3 IT IS SO ORDERED.

4 **Dated: February 4, 2008**

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

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