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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTONIO SMITH,

Plaintiff,

v.

MERCED COUNTY,

Defendant.

CASE NO. 1:10-CV-01885-LJO-DLB PC

ORDER DENYING MOTION TO WAIVE
STATE COURT FEES

(DOC. 2)

ORDER DISMISSING ACTION WITHOUT
PREJUDICE FOR FAILURE TO PAY FILING
FEE OR FILE APPLICATION TO PROCEED
IN FORMA PAUPERIS

(DOC. 4)

_____/

Plaintiff, proceeding pro se, filed this civil action on October 8, 2010. Plaintiff did not pay the \$350.00 filing fee in full or file an application to proceed in forma pauperis. Plaintiff submitted a motion requesting waiver of state court fees. Doc. 2. Because that motion is not a proper application to proceed in forma pauperis before this Court, it is **HEREBY ORDERED** denied.

On October 19, 2010, the Court ordered Plaintiff to pay the filing fee or submit a motion to proceed in forma pauperis within forty-five days. Doc. 4. More than forty-five days have passed and Plaintiff has not complied with the Court’s order. Plaintiff was warned that failure to obey the order would result in dismissal of the action.

A civil action may not proceed absent the submission of either the filing fee or an application to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. Because Plaintiff has submitted neither and has not responded to the Court’s order to do so, dismissal of this action is

1 appropriate. *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217,
2 1226 (9th Cir. 2006); Local Rule 110.

3 Accordingly, the Court HEREBY ORDERS this action dismissed, without prejudice, for
4 failure to pay the filing fee or file an application to proceed in forma pauperis.

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6 IT IS SO ORDERED.

7 **Dated:** January 5, 2011

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

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