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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
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10 JAMES SANTIAGO ESPINOZA,

11 Plaintiff,

12 v.

13 DONNY YOUNGBLOOD,

14 Defendant.  
15

Case No. 1:12-cv-01520-DLB PC

**ORDER DISMISSING ACTION WITHOUT  
PREJUDICE**

16 Plaintiff James Santiago Espinoza is a prisoner proceeding pro se, filed this civil action on  
17 September 14, 2012. Plaintiff did not pay the \$350.00 filing fee in full or file an application to  
18 proceed in forma pauperis, and on October 30, 2012, the Court ordered Plaintiff to do so within  
19 forty-five days. More than forty-five days have passed and Plaintiff has not complied with or  
20 otherwise responded to the Court's order. Plaintiff was warned that failure to obey the order would  
21 result in dismissal of the action.

22 A civil action may not proceed absent the submission of either the filing fee or an application  
23 to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. Because Plaintiff has submitted neither and  
24 has not responded to the Court's order to do so, dismissal of this action is appropriate. *In re*  
25 *Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006);  
26 Local Rule 110.

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

IT IS SO ORDERED.

Dated: February 11, 2013

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE