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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

MICHAEL VINCENT CISNEROS,	)	Case No.: 1:14-cv-00922-SAB (PC)
Plaintiff,	)	
v.	)	ORDER DENYING PLAINTIFF’S MOTION FOR
	)	RESTITUTION RESTRUCTURE
GRAHAM, et al.,	)	[ECF No. 10]
Defendants.	)	
	)	
	)	
	)	

Plaintiff Michael Vincent Cisneros is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Now pending before the Court is Plaintiff’s motion for restitution restructure, filed October 22, 2014. In his motion, Plaintiff challenges the deduction of the \$350 filing fee pursuant to the installment payment provisions set forth in 28 U.S.C. § 1915(b)(1).

Plaintiff was granted in forma pauperis status in this action on June 17, 2014. (ECF No. 5.)

Plaintiff was advised as follows:

Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments in the amount of twenty percent of the proceeding month’s income credited to plaintiff’s trust account. The California Department of Corrections is required to send to the Clerk of the Court payments from plaintiff’s account each time the amount in the account exceeds \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 (ECF No. 5, 19:24.)

2 The payment of the filing fee and installment provisions are mandatory by statute for inmates  
3 who want to file a civil action, and cannot be modified as at Plaintiff's request. As stated by one  
4 federal court,

5 Section 1915 requires a modest initial filing fee before a case may proceed, 28 U.S.C.  
6 1915(b)(1), and thereafter a prisoner is required to pay only '20 percent of the  
7 preceding month's income credited to the prisoner's account' until the total fee is paid,  
8 28 U.S.C. § 1915(b)(2). To further ensure that prisoners need not 'totally deprive  
9 themselves of those small amenities of life which they are permitted to acquire in a  
10 prison or mental hospital beyond the food, clothing, and lodging already furnished by  
the state,' Evans [v. Croom], 650 F.2d [521], 524 [(C.A.N.C. 1981)] (citation omitted),  
section, 1915 allows payment to be taken from the prisoner's account only where 'the  
amount in the account exceeds \$10....' 28 U.S.C. 1915(b)(2).

11 Roller v. Gunn, 107 F.3d 227, 233 (C.A. 4 (S.C.) 1997)

12 Because there is no basis to modify the reduction of Plaintiff's installment payments  
13 applicable to the \$350.00 filing fee in this action, Plaintiff's motion for restitution restructure is  
14 DENIED.

15  
16  
17 IT IS SO ORDERED.

18 Dated: December 2, 2014

  
UNITED STATES MAGISTRATE JUDGE