

1 except that plaintiff's application to proceed *in forma pauperis* will be denied without prejudice
2 to being renewed.

3 Based upon what is now before the court, the undersigned cannot conclude that plaintiff is
4 unable to pay the \$400 filing fee. In plaintiff's application to proceed *in forma pauperis* filed
5 with the court on August 16, 2017, he stated under penalty of perjury that he possesses cash in the
6 amount of \$50,000 and, in addition, indicated that he had received an average deposit into his
7 prisoner's trust account of \$500.00 per month over the past six months with his average balance
8 in that account being \$500 as well. (Doc. No. 9 at 3, 5.) However, an "Inmate Statement Report"
9 submitted by the California Department of Corrections and Rehabilitation to the court on August
10 18, 2017, appears to state that as of that date plaintiff had a \$0.00 balance in his prisoner's trust
11 account. (Doc. No. 11.) Because the evidence before the court as to plaintiff's financial
12 wherewithal is inconclusive, the court will adopt the pending findings and recommendations and
13 deny plaintiff's motion to proceed *in forma pauperis*. However, this denial will be without
14 prejudice to plaintiff filing another application to proceed *in forma pauperis* clarifying his
15 financial condition and adequately demonstrating financial hardship.

16 For these reasons,

- 17 1. The findings and recommendations dated August 22, 2017 (Doc. No. 12) are
18 adopted in full, except that the denial of plaintiff's motion shall be without
19 prejudice;
- 20 2. Plaintiff's motion to proceed *in forma pauperis* (Doc. No. 9) is denied without
21 prejudice;
- 22 3. Plaintiff shall pay the \$400 filing fee in full within 30 days of the date of issuance
23 of this order or submit a renewed application to proceed *in forma pauperis*
24 clarifying his financial condition and adequately demonstrating financial hardship;
25 and

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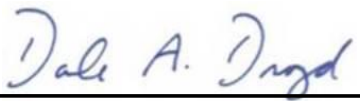
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4. The Clerk of Court is directed to serve a copy of this order on the Financial Department, U.S. District Court, Eastern District of California, Fresno Division.

IT IS SO ORDERED.

Dated: November 27, 2017


UNITED STATES DISTRICT JUDGE