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

| | | |
|-----------------------|---|--|
| JEFFREY T. HARDIN, |) | Case No.: 1:17-cv-01232 - LJO - JLT |
| |) | |
| Plaintiff, |) | SECOND ORDER DIRECTING PLAINTIFF TO |
| v. |) | PAY THE FILING FEE OR FILE A MOTION TO |
| DAVID WILSON, et al., |) | PROCEED IN FORMA PAUPERIS |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff initiated this action by filing a complaint on September 14, 2017. (Doc. 1) However, he did not pay the filing fee or file a motion to proceed *in forma pauperis*.

As the Court informed Plaintiff previously, as a general rule, all parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. 28 U.S.C. § 1915(a). The Court may authorize the commencement of an action without the filing fee “by a person who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefore.” 28 U.S.C. § 1915(a)(1). Therefore, an action may proceed despite a failure to prepay the filing fee **only if** leave to proceed *in forma pauperis* is granted by the Court. *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Despite receiving this information from the Court, Plaintiff failed to pay the filing fee or file a motion to proceed in forma paupers. Instead, Plaintiff filed a response to the Court’s order in which he indicated he is “an indigent inmate,” who does not have his own funds and “cannot afford filing [the] complaint.” (Doc. 3 at 1) However, Plaintiff did not make these statements under oath. (*See id.*)

1 Thereafter, the Court provided Plaintiff with its application to proceed *in forma pauperis* form, to be
2 completed by Plaintiff. (Doc. 4) To date, Plaintiff has neither completed the application nor paid the
3 Court's filing fee. As a result, the action cannot proceed at this time.

4 Accordingly, the Court ORDERS:

- 5 1. Plaintiff **SHALL** pay the filing fee *or* file a motion to proceed in forma pauperis no
6 later than **December 29, 2017**; and
- 7 2. The Clerk of Court is DIRECTED to provide a copy of the Court's application to
8 proceed in forma pauperis when serving this Order upon Plaintiff.

9 **Plaintiff is advised that failure to comply with this order may result in the dismissal of the action**
10 **pursuant to Local Rule 110.**

11
12 IT IS SO ORDERED.

13 Dated: **December 5, 2017**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE