

1 On December 11, 2017, Plaintiff submitted a renewed motion to proceed in forma
2 pauperis. (ECF No. 6.) Plaintiff again indicated that he received rent payments, interest or
3 dividends over the last twelve months. Plaintiff stated that he had \$3,000.00 in cash in an account
4 “from a Tribal Corp,” which yields dividends in April and December, annually. Plaintiff further
5 stated that he owns stocks “in Tribal Corp.” (Id.) Plaintiff again failed to indicate the amount
6 received from the dividends yielded by his Tribal Corp account or the value of his stocks.
7 Plaintiff also failed to sign or date the application, complete the certificate portion, or to include a
8 certified copy of his trust account statement. The Court issued another order directing Plaintiff to
9 file a completed application or pay the filing fee. (ECF No. 7.)

10 Currently before the Court is Plaintiff’s renewed motion for leave to proceed in forma
11 pauperis. (ECF No. 9.) A copy of Plaintiff’s certified prison trust account statement was filed on
12 January 9, 2018. (ECF No. 12.) Upon examination of these documents, the Court cannot
13 conclude that Plaintiff is unable to pay the \$400 filing fee. Plaintiff states that he receives bi-
14 annual dividends of approximately \$600.00 in April and December from a lot (100) shares in a
15 trial corporation with a value of \$3,008.77. These dividends are apparently paid to Plaintiff by
16 direct deposit. (ECF No. 9.) In addition, Plaintiff’s trust account statement reflects monthly
17 deposits ranging from \$70.00 to \$200.00 over the past six months. Plaintiff provides no
18 explanation for these deposits. (ECF No. 12.) However, Plaintiff’s trust account statement also
19 reflects a current available balance of \$90.40 as of January 9, 2018, and average monthly
20 balances that have never exceeded \$200.00. (Id.)

21 Although the evidence before the Court of Plaintiff’s assets is inconclusive, Plaintiff has
22 been provided with multiple opportunities to clarify his financial condition and adequately
23 demonstrate financial hardship. Plaintiff has failed to do so.

24 Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a
25 District Judge to this action.

26 Further, it is HEREBY RECOMMENDED that:

- 27 1. The motion to proceed in forma pauperis (ECF No. 9) be DENIED; and
- 28 2. Plaintiff be ORDERED to pay the \$400 initial filing fee in full to proceed with this

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action.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that the failure to file objections within the specified time may result in the waiver of the “right to challenge the magistrate’s factual findings” on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: January 10, 2018

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE