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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID L. JOHNSON, JR.,

Plaintiff,

No. CIV 2:11-cv-2578-MCE-JFM (PS)

vs.

OFFICEMAX, INC.,

Defendant.

ORDER

_____/

This action was removed to this court from the Yolo County Superior Court by defendant on September 30, 2011. Also on that date, defendant paid the \$350 filing fee. On October 11, 2011, plaintiff filed a motion to proceed in forma pauperis.

According to the federal code, “the clerk of each district court shall require the parties instituting any civil action, suit or proceeding ... to pay a filing fee of \$350.” 28 U.S.C. § 1914(a). In the alternative, “any court of the United States may authorize the commencement ... of any suit ... without prepayment of fees ... by a person who submits an affidavit that ... the person is unable to pay such fees.” 28 U.S.C. § 1915(a)(1). Here, because the only named defendant has been served and previously paid the filing, plaintiff’s motion to proceed in forma pauperis will be denied as moot.

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Accordingly, IT IS HEREBY ORDERED that plaintiff's October 11, 2011 application to proceed in forma pauperis is denied as moot.
DATED: November 7, 2011.


UNITED STATES MAGISTRATE JUDGE

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