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

JAMES EDWARD TRUSCHKE, JR.,

Plaintiff,

No. 2:13-cv-1255 EFB P

vs.

D. FLYNN, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a county inmate proceeding without counsel. He has filed documents with the court using the form to be used by a prisoner in filing a complaint under the Civil Right Act, 42 U.S.C. § 1983.

To proceed with a civil action a plaintiff must pay the \$400 filing fee required by 28 U.S.C. § 1914(a) or request leave to proceed *in forma pauperis* and submit the affidavit and trust account statement required by 28 U.S.C. § 1915(a). Plaintiff has neither paid the fee nor submitted a proper application for leave to proceed in forma pauperis. Plaintiff has 30 days to either pay the fee or file a proper application.

In addition, plaintiff must submit a proper complaint. Plaintiff has filed the first page of the prisoner civil rights form complaint, but he has not signed it or included a short and plain

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1 statement of his claim.<sup>1</sup> See Dckt. No. 1. Rule 11 of the Federal Rules of Civil Procedure  
2 requires that “[e]very pleading, written motion, and other paper . . . be signed by at least one  
3 attorney of record in the attorney’s name—or by a party personally if the party is unrepresented.”  
4 Fed. R. Civ. P. 11(a). Rule 8 requires that a complaint include “a short and plain statement of  
5 the claim” showing entitlement to relief. Fed. R. Civ. P. 8(a)(2). To properly commence a civil  
6 action, plaintiff must file a signed complaint. Fed. R. Civ. P. 3.

7 Until plaintiff submits a proper complaint and either pays the filing fee or meets the  
8 requirements of 28 U.S.C. § 1915(a), there simply is no case before the court.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The Clerk of the Court is directed to mail to plaintiff a form application for leave to  
11 proceed in forma pauperis and a form for filing a civil rights action under 42 U.S.C. § 1983.

12 2. Plaintiff has 30 days from the date of service of this order to submit either the filing  
13 fee or the application required by § 1915(a).

14 3. Plaintiff has 30 days from the date of service of this order to submit a complaint.

15 4. Failure to comply with this order may result in this action being dismissed.

16 DATED: July 9, 2013.

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18 EDMUND F. BRENNAN  
19 UNITED STATES MAGISTRATE JUDGE  
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26 <sup>1</sup> Instead, plaintiff has filed a copy of a California Government Claims Form and a one-  
page letter addressed “to whom it may concern.” See Dckt. No. 1.