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

KORDY RICE,

No. 2:16-cv-0562-CMK-P

Plaintiff,

vs.

ORDER

R. McCORD, et. al.,

Defendants.

\_\_\_\_\_ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for leave to proceed in forma pauperis (Doc. 2) and motion for leave to file an amended compliant (Doc. 5).

Plaintiff filed his motion for leave to proceed in forma pauperis on the wrong form. Thus, he has not filed a complete application to proceed in forma pauperis, along with a certified copy of his trust account statement for the six-month period immediately preceding the filing of the complaint, or paid the required filing fee. See 28 U.S.C. §§ 1914(a), 1915(a), (a)(2). Plaintiff will be provided the opportunity to submit either a proper application to proceed in forma pauperis or the appropriate filing fee. Plaintiff is warned that failure to resolve the fee status of this case within the time provided may result in the dismissal of this action for lack of

1 prosecution and failure to comply with court rules and orders. See Local Rule 110.

2 As to plaintiff's motion to file an amended complaint, Federal Rule of Civil  
3 Procedure 15(a)(1) provides that a party may amend his pleading once as a matter of right at any  
4 time before being served with a responsive pleading. In this case, no responsive pleading has  
5 been served. Therefore, plaintiff's motion is denied as unnecessary. If plaintiff decides to file an  
6 amended complaint, he may do so within 30 days of the date of this order. Otherwise, the court  
7 will proceed with screening of his original complaint.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Plaintiff's motion to proceed in forma pauperis (Doc. 2) is denied as  
10 incomplete;

11 2. Plaintiff shall submit on the form provided by the Clerk of the Court,  
12 within 30 days from the date of this order, a proper application for leave to proceed in forma  
13 pauperis, or the appropriate filing fee;

14 3. The Clerk of the Court is directed to send plaintiff a new form Application  
15 to Proceed In Forma Pauperis By a Prisoner;

16 4. Plaintiff's motion for leave to amend (Doc. 5) is denied as unnecessary;  
17 and

18 5. Plaintiff may file an amended complaint within 30 days of the date of this  
19 order.

20  
21 DATED: October 28, 2016

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23 **CRAIG M. KELLISON**  
24 UNITED STATES MAGISTRATE JUDGE  
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