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

FLOYD LOWE,

No. 2:16-cv-1176-GEB-CMK-P

Plaintiff,

vs.

ORDER

SUPERIOR COURT OF CALIFORNIA  
SAN JOAQUIN COUNTY  
STOCKTON CALIFORNIA,

Defendant.

\_\_\_\_\_ /

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 to proceed in forma pauperis (Doc. 8), and motion for a stay and additional time (Doc. 9).

On June 29, 2017, the undersigned issued findings and recommendation that this action be dismissed for plaintiff’s failure to resolve his fee status. As plaintiff has now filed his motion to proceed in forma pauperis, the findings and recommendation will be withdrawn. In his request for leave to proceed in forma pauperis, plaintiff makes the showing required by 28 U.S.C. § 1915(a). The request to proceed in forma pauperis will, therefore, be granted. However, it appears that plaintiff originally sent his request for additional time to the court without a case

1 number. He then returned it with the case number, along with his application to proceed in  
2 forma pauperis. As plaintiff was requesting additional time to file his application, that request is  
3 now moot as the application has been received and will be granted. To the extent plaintiff is also  
4 request a stay of these proceedings pending resolution of an action in the San Joaquin County  
5 Court, these proceedings are not affected by the state court proceedings, as set forth more  
6 completely in the findings and recommendation issued herewith. Therefore, there is no basis for  
7 the court to enter a stay of these proceedings.

8  
9 To: The California Department of Corrections and Rehabilitation  
10 1515 S Street, Sacramento, California 95814:

11 Plaintiff is obligated to pay the full statutory filing fee of \$350.00 for this action.  
12 In addition to any initial partial filing fee required to be assessed, plaintiff will be obligated to  
13 make monthly payments in the amount of twenty percent of the preceding month's income  
14 credited to plaintiff's inmate trust account. The agency referenced above is required to send to  
15 the Clerk of the Court the initial partial filing fee and thereafter payments from plaintiff's inmate  
16 trust account each time the amount in the account exceeds \$10.00, until the statutory filing fee of  
17 \$350.00 is paid in full. See 28 U.S.C. § 1915(b)(2).

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Findings and Recommendations (Doc. 7) are withdrawn;
- 20 2. Plaintiff's motion for leave to proceed in forma pauperis (Doc. 8) is  
21 granted;
- 22 3. Plaintiff's motion to stay and for an extension of time (Doc. 9) is denied;
- 23 4. Plaintiff is required to pay the full statutory filing fee of \$350.00 for this  
24 action pursuant to 28 U.S.C. §§ 1914(a) and 1915(b)(1);
- 25 5. The director of the agency referenced above, or a designee, shall collect  
26 from plaintiff's inmate trust account an initial partial filing fee in accordance with the provisions

1 of 28 U.S.C. § 1915(b)(1) and shall forward the amount to the Clerk of the Court, such payment  
2 to be clearly identified by the name and number assigned to this action;

3           6.       Thereafter, the director of the agency referenced above, or a designee, shall  
4 collect from plaintiff's inmate trust account the balance of the filing fee by collecting monthly  
5 payments from plaintiff's inmate trust account in an amount equal to twenty percent (20%) of the  
6 preceding month's income credited to plaintiff's inmate trust account and forwarding payments to  
7 the Clerk of the Court each time the amount in the account exceeds \$10.00 in accordance with 28  
8 U.S.C. § 1915(b)(2), until the \$350.00 filing fee for this action has been paid in full, such  
9 payments to be clearly identified by the name and number assigned to this action;

10           7.       The Clerk of the Court is directed to serve a copy of this order and a copy  
11 of plaintiff's signed in forma pauperis affidavit to the address shown above; and

12           8.       The Clerk of the Court is further directed to serve a copy of this order on  
13 the Financial Department of the court.

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16 DATED: December 7, 2017

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18 **CRAIG M. KELLISON**  
19 UNITED STATES MAGISTRATE JUDGE  
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