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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 LIONELL THOLMER,

12 Plaintiff,

13 v.

14 UNKNOWN,

15 Defendant.  
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No. 2:20-cv-1977-EFB P

ORDER

17 Lionell Tholmer is a state prisoner proceeding without counsel. This action was opened  
18 when he submitted to the court a letter to a district judge followed by a sworn declaration. ECF  
19 Nos. 1 & 5. The letter suggests an attempt to, but has not properly commenced a civil action.

20 A complaint is necessary for the commencement of a civil action. Fed. R. Civ. P. 3. A  
21 complaint must contain a short and plain statement of the plaintiff's claim, showing that he is  
22 entitled to relief. Fed. R. Civ. P. 8. It must also contain a caption including the names of all  
23 defendants. Fed. R. Civ. P. 10(a). Mr. Tholmer may draft his claims on the form complaint used  
24 by this court.

25 In addition, a plaintiff must pay the \$400 filing fee required by 28 U.S.C. § 1914(a) or  
26 request leave to proceed in forma pauperis and submit the affidavit and trust account statement  
27 required by 28 U.S.C. § 1915(a). Section 1915(a)(2) requires "a prisoner seeking to bring a civil  
28 action without prepayment of fees or security therefor, in addition to filing the affidavit filed

1 under paragraph (1), shall submit a certified copy of the trust fund account statement (or  
2 institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing  
3 of the complaint . . . , obtained from the appropriate official of each prison at which the prisoner  
4 is or was confined.” To proceed with a civil action, Mr. Tholmer must either pay the filing fee or  
5 comply with the requirements set forth in the in forma pauperis statute.

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

8 Accordingly, it hereby is ORDERED that:

9 1. The Clerk is directed to send Mr. Tholmer a form complaint and application for leave  
10 to proceed in forma pauperis used in this court;

11 2. Within 30 days from the date of service of this order, Mr. Tholmer shall either pay the  
12 \$400 filing fee or submit a complete application for leave to proceed in forma pauperis; and

13 3. Within 30 days from the date of service of this order, Mr. Tholmer shall submit a  
14 complaint stating the nature of the action and his belief that he is entitled to redress. Failure to  
15 comply with this order will result in the disregard of Mr. Tholmer’s letter and the clerk not  
16 opening a civil action as to whatever claim he wants to present.

17 DATED: October 16, 2020.

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19 EDMUND F. BRENNAN  
20 UNITED STATES MAGISTRATE JUDGE  
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