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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 BYRON JACKSON,
12 CDCR #K-61614,

13 Plaintiffs,

Civil 07-1755 JM (NLS)
No.

**ORDER DISMISSING CASE
WITHOUT PREJUDICE FOR
FAILING TO PAY FILING FEES
PURSUANT TO 28 U.S.C. §
1914(a) AND/OR MOVE TO
PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

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19 vs.

20 O. GUITIERREZ, et al.,

21 Defendants.
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23 Plaintiff, an inmate currently incarcerated at Corcoran State Prison located in
24 Corcoran, California, and proceeding pro se, has filed a civil rights complaint pursuant
25 to 42 U.S.C. § 1983.

26 **I. Failure to Pay Filing Fee or Request IFP Status**

27 Effective April 9, 2006, all parties instituting any civil action, suit or proceeding
28 in a district court of the United States, other than a writ of habeas corpus, must pay a

1 filing fee of \$350. *See* 28 U.S.C. § 1914(a). An action may proceed despite a party's
2 failure to pay only if the party is granted leave to proceed *in forma pauperis* ("IFP")
3 pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047 (9th Cir.
4 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

5 In this case, Plaintiff has neither prepaid the \$350 filing fee required to commence
6 this civil action, nor has he submitted a Motion to Proceed IFP. Therefore, the case is
7 subject to immediate dismissal pursuant to 28 U.S.C. § 1914(a). *Id.*

8 **II. Conclusion and Order**

9 For the reasons set forth above, the Court hereby:

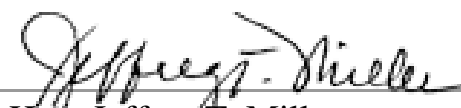
10 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the
11 \$350 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and
12 1915(a); and

13 (2) **GRANTS** Plaintiff forty-five (45) days leave from the date this Order is
14 stamped "Filed" to: (a) prepay the entire \$350 civil filing fee in full; **or** (b) complete and
15 file a Motion to proceed IFP which includes a certified copy of his trust account
16 statement for the 6-month period preceding the filing of his Complaint pursuant to 28
17 U.S.C. § 1915(a)(2).

18 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff
19 with the Court's approved form "Motion and Declaration in Support of Motion to
20 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$350 civil filing fee
21 or complete and submit the attached Motion to Proceed IFP within forty-five days, this
22 civil action shall remain dismissed without prejudice and without further Order of the
23 Court.

24 **IT IS SO ORDERED.**

25 DATED: September 13, 2007

26 
27 Hon. Jeffrey T. Miller
28 United States District Judge