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8   UNITED STATES DISTRICT COURT

9   SOUTHERN DISTRICT OF CALIFORNIA

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11 CASEY GERRY SCHENK   )   Civil No. 10cv821-L(JMA)
    FRANCAVILLA BLATT & PENFIELD)
12 LLP *et al.*   )   **ORDER REGARDING**
)   **COMPLIANCE WITH 28 U.S.C.**
13   Plaintiffs,   )   **§1335(a)(2)**
)
14 v.   )
)
15 ESTATE OF ROBERT COWAN *et al.*,)
)
16   Defendants.   )
)
17 _____

18   On April 19, 2010 Plaintiff filed a complaint in interpleader alleging subject matter

19 jurisdiction pursuant to 28 U.S.C. Section 1335. Section 1335 requires, among other things and

20 as more specifically provided therein, the plaintiff to deposit into the registry of the court the

21 funds in dispute or give a bond payable to the clerk of the court. The requirement to make a

22 deposit or give a bond is jurisdictional and failure to comply requires dismissal of the complaint.

23 *See N.Y. Life Ins. Co. v. Lee*, 232 F.2d 811 (9th Cir. 1956); *see also* 28 U.S.C. § 1335(a) ("The

24 district courts shall have original jurisdiction of any civil action of interpleader . . ., if . . . (2) the

25 plaintiff has deposited such money or property . . . into the registry of the court, . . . or has given

26 bond payable to the clerk of the court . . .."). Plaintiff so far has not made a deposit or given a

27 bond as required. Accordingly, it is hereby **ORDERED** that no later than **June 4, 2010** Plaintiff

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10cv821

1 comply with the requirements of section 1335(a)(2). If Plaintiff fails timely to comply with this

2 order, the complaint will be dismissed for lack of subject matter jurisdiction.

3   **IT IS SO ORDERED**.

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5 DATED: May 19, 2010

6 _____
      M. James Lorenz

7   United States District Court Judge

   COPY TO:
8
   HON. JAN M. ADLER
9 UNITED STATES MAGISTRATE JUDGE

10 ALL PARTIES/COUNSEL

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