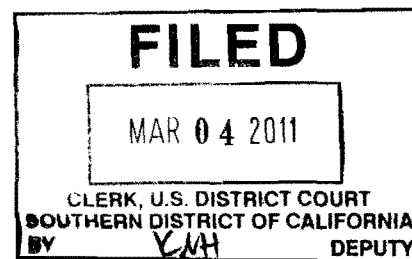


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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

<p>JONATHAN MORALES,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>UNITED STATES OF AMERICA,</p> <p style="text-align: right;">Defendant.</p>		
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Case No 10cv2013 BEN (CAB)

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

[Dkt. Nos. 2, 3]

INTRODUCTION

Plaintiff Jonathan Morales commenced this action against Defendant United States of America.¹ Instead of paying the \$350.00 filing fee, Morales moves to proceed in forma pauperis ("IFP"). Dkt. No. 2. He also moves for appointment of counsel. Dkt. No. 3. Because Morales has failed to state any claim upon which relief may be granted, these motions are denied and the action is *sua sponte* dismissed.

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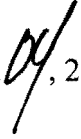
¹This Court previously dismissed Plaintiff's Complaint in Case No. 10cv1675 BEN (CAB) for failing to state a claim. It appears that rather than seeking leave to amend in that case, Plaintiff filed this new case.

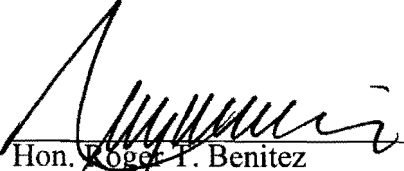
1 provide "a short and plain statement of the claim showing that the pleader is entitled to relief." FED.
2 R. CIV. PROC. 8(a)(2). Plaintiff must also indicate if he submitted an administrative claim to the
3 appropriate Federal agency, when he submitted the claim, and if he has received a denial in writing.
4 Additionally, pursuant to Civil Local Rule 15.1, Plaintiff's FAC must be complete in itself without
5 reference to the previously filed Complaint. The Court cautions Plaintiff that his FAC may be
6 dismissed without further leave to amend if it also fails to state a claim.

7 **CONCLUSION**

8 The Court *sua sponte* dismisses the Complaint without prejudice, **DENIES** the motion to
9 proceed IFP and request for appointment of counsel, and **GRANTS** Plaintiff leave to file a First
10 Amended Complaint.

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12 **IT IS SO ORDERED.**

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14 Dated: March , 2011


Hon. Roger T. Benitez
United States District Judge

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