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

B. ELIZABETH DURANTY MOORE,
et al.,
Inmate Booking No. 17162298,

Plaintiff,

Civil No. 14cv0666 LAB (RBB)

vs.

KNELL V. FIA CARD SERVICES, N.A.;
ENCORE RECEIVABLE
MANAGEMENT,

Defendants.

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

Plaintiff, currently incarcerated at the Western Regional Detention Center located in San Diego, California, and proceeding pro se, has filed a civil action.

I. Failure to Pay Filing Fee or Request IFP Status

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee

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1 of \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a party's failure to
2 pay this filing fee 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, 1051 (9th
4 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

5 Plaintiff has not prepaid the \$400 in filing and administrative fees required to
6 commence a civil action, nor has she submitted a Motion to Proceed IFP pursuant to 28
7 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C. § 1914(a);
8 *Andrews*, 493 F.3d at 1051.

9 **II. Conclusion and Order**

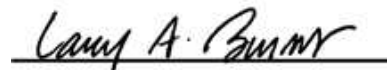
10 For the reasons set forth above, the Court hereby:

11 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the
12 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to
13 28 U.S.C. §§ 1914(a) and 1915(a); and

14 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is
15 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or*
16 (b) complete and file a Motion to Proceed IFP which includes a certified copy of her trust
17 account statement for the 6-month period preceding the filing of his Complaint. *See* 28
18 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).

19 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff
20 with this Court's approved form "Motion and Declaration in Support of Motion to
21 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee
22 or complete and submit the enclosed Motion to Proceed IFP within that time, this action
23 shall remain dismissed without prejudice and without further Order of the Court.

24 DATED: March 27, 2014



25 **HONORABLE LARRY ALAN BURNS**
26 United States District Judge

27 ¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013,
28 must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a) (Judicial Conference
Schedule of Fees, District Court Misc. Fee Schedule) (eff. May 1, 2013). However, the additional \$50
administrative fee is waived if the plaintiff is granted leave to proceed IFP. *Id.*