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

GREGORY KONRATH  
Inmate #254068,  
  
Plaintiff,  
  
vs.  
  
SCOTT BELKOFER, et al.,  
  
Defendants.

Case No.: 3:16-cv-03011-MMA-WVG

**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)**

Gregory Konrath (“Plaintiff”), currently incarcerated at Westville Correctional Facility located in Westville, Indiana, and proceeding *pro se*, has filed this civil action pursuant to various federal statutes, including 42 U.S.C. §§ 1983, 1985(3), 1986, and 28 U.S.C. § 1331, and 1332. (Doc. Nos. 1, 3.)

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

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

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1 \$400. *See* 28 U.S.C. § 1914(a).<sup>1</sup> An action may proceed despite a plaintiff’s failure to  
2 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C.  
3 § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v.*  
4 *Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the Plaintiff is a prisoner, and  
5 even if he is granted leave to commence his suit IFP, he remains obligated to pay the  
6 entire filing fee in “increments,” *see Williams v. Paramo*, 775 F.3d 1182, 1185 (9th Cir.  
7 2015), regardless of whether his case is ultimately dismissed. *See* 28 U.S.C. § 1915(b)(1)  
8 & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

9 Plaintiff has not prepaid the \$400 in filing and administrative fees required to  
10 commence this civil action, nor has he submitted a properly supported Motion to Proceed  
11 IFP pursuant to 28 U.S.C. § 1915(a). Therefore, his case cannot yet proceed. *See* 28  
12 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

## 13 **II. Conclusion and Order**

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

15 (1) **DISMISSES** this action sua sponte without prejudice for failure to pay the  
16 \$400 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to  
17 28 U.S.C. §§ 1914(a) and 1915(a); and

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

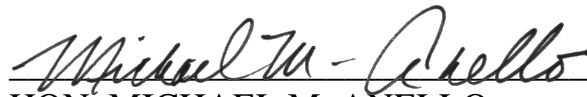
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26 <sup>1</sup> In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50. *See*  
27 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff.  
Dec. 1, 2014)). The additional \$50 administrative fee does not apply to persons granted leave to proceed  
IFP. *Id.*

1           **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff  
2 with this Court’s approved form “Motion and Declaration in Support of Motion to  
3 Proceed *In Forma Pauperis*.” If Plaintiff fails to either prepay the \$400 civil filing fee or  
4 complete and submit the enclosed Motion to Proceed IFP within 45 days, this action will  
5 remain dismissed without prejudice based on Plaintiff’s failure to satisfy 28 U.S.C.  
6 § 1914(a)’s fee requirements and without further Order of the Court.

7           **IT IS SO ORDERED.**

8 DATE: April 17, 2017

  
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HON. MICHAEL M. ANELLO  
United States District Judge

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