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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 TONY BLACKMAN  
12 V-22349,

13 Plaintiff,

14 v.

15 J. MENDOSA; SUZAN L. HUBBARD;  
16 QUIZON; J.T. DELGADO; K. O'NEAL;  
17 M. ELIZALDE; J. WOODS; CHERYL K.  
18 PLILER ,

19 Defendants.  
20

Case No.: 3:17-cv-00236-JLS-NLS

**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)**

21 TONY BLACKMAN (“Plaintiff”), currently incarcerated at Richard J. Donovan  
22 Correctional Facility located in San Diego, California, and proceeding pro se, has filed a  
23 civil rights complaint (“Compl.”) (ECF No. 1).

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

25 All parties instituting any civil action, suit or proceeding in a district court of the  
26 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 even  
5 if he is granted leave to commence his suit IFP, he remains obligated to pay the entire filing  
6 fee in “increments,” *see Williams v. Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015),  
7 regardless of whether his case is ultimately dismissed, *see* 28 U.S.C. § 1915(b)(1) & (2);  
8 *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 U.S.C.  
12 § 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 filed  
19 to: (a) prepay the entire \$400 civil filing and administrative fee in full; or (b) complete and  
20 file a Motion to Proceed IFP which includes a certified copy of his trust account statement  
21 for the 6-month period preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2);  
22 S.D. Cal. CivLR 3.2(b).

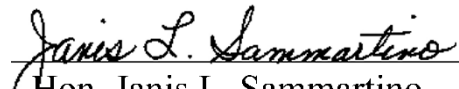
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26 <sup>1</sup> In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50.  
27 *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14  
(eff. Dec. 1, 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 Proceed  
3 *In Forma Pauperis.*” If Plaintiff fails to either prepay the \$400 civil filing fee or complete  
4 and submit the enclosed Motion to Proceed IFP within 45 days, this action will remain  
5 dismissed without prejudice based on Plaintiff’s failure to satisfy 28 U.S.C. § 1914(a)’s fee  
6 requirements and without further Order of the Court.

7           **IT IS SO ORDERED.**

8 Dated: February 23, 2017

  
9 Hon. Janis L. Sammartino  
10 United States District Judge

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