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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
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13 Case No.: 17-cv-560-BAS(BLM)

14 JAMI JOHNSON,
15 G-20888,

16 Plaintiff,

17 v.

18 D. PAMPLIN; G. VALDAVINAS; A.
19 MASSIA; M. MORALES; J. HEDDY; O.
20 MORALES; M. ACUNA; J. WILBORN;
21 W. SMITH,

22 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)**

23 Jami Johnson ("Plaintiff"), currently incarcerated at California State Prison,
24 Corcoran, located in Corcoran, California, and proceeding *pro se*, has filed a civil-rights
25 complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.)

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1 **I. Failure to Pay Filing Fee or Request *In Forma Pauperis* Status**

2 All parties instituting any civil action, suit, or proceeding in a district court of the
3 United States, except an application for writ of habeas corpus, must pay a filing fee of
4 \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a plaintiff's failure to
5 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C.
6 § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v.*
7 *Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the plaintiff is a prisoner, and even
8 if he is granted leave to commence his suit IFP, he remains obligated to pay the entire filing
9 fee in "increments," *see Williams v. Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015),
10 regardless of whether his case is ultimately dismissed. *See* 28 U.S.C. § 1915(b)(1) & (2);
11 *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

12 Plaintiff has not prepaid the \$400 in filing and administrative fees required to
13 commence this civil action, nor has he submitted a properly supported Motion to Proceed
14 IFP pursuant to 28 U.S.C. § 1915(a). Therefore, his case cannot yet proceed. *See* 28 U.S.C.
15 § 1914(a); *Andrews*, 493 F.3d at 1051.

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17 **II. Conclusion and Order**

18 For the reasons set forth above, the Court:

19 (1) **DISMISSES** this action *sua sponte* without prejudice for failure to pay the
20 \$400 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to
21 28 U.S.C. §§ 1914(a) and 1915(a); and

22 (2) **GRANTS** Plaintiff **forty-five (45)** days leave from the date this Order is filed
23 to: (a) prepay the entire \$400 civil filing and administrative fee in full; or (b) complete and
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25 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of
26 \$50. *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule,
27 § 14 (eff. Dec. 1, 2014). The additional \$50 administrative fee does not apply to persons granted leave to
proceed *in forma pauperis* ("IFP"). *Id.*

1 file a Motion to Proceed IFP which includes a certified copy of his trust account statement
2 for the 6-month period preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2);
3 S.D. Cal. CivLR 3.2(b).

4 The Court further **ORDERS** that the Clerk of the Court shall provide Plaintiff with
5 this Court's approved form titled, "Motion and Declaration in Support of Motion to
6 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee, or
7 complete and submit the enclosed Motion to Proceed IFP within 45 days, this action will
8 remain dismissed without prejudice based on Plaintiff's failure to satisfy 28 U.S.C.
9 § 1914(a)'s fee requirements and without further Order of the Court.

10 **IT IS SO ORDERED.**

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12 **DATED: March 23, 2017**


Hon. Cynthia Bashant
United States District Judge