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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ELMER LAPPE,

12 Plaintiff,

13 v.

14 PSYCH CLARK, et al.

15 Defendants.
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Case No.: 17cv1410-CAB-KSC

**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)**

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21 Elmer Lappe (“Plaintiff”), proceeding *pro se*, has filed a civil action. (ECF No. 1).

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

23 All parties instituting any civil action, suit or proceeding in a district court of the
24 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).¹ 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); S.D. Cal. CivLR 3.2.

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

9 10 **II. Conclusion and Order**

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

12 (1) **DISMISSES** this action *sua sponte* without prejudice for failure to pay the
13 \$400 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to
14 28 U.S.C. §§ 1914(a) and 1915(a), and S.D. Cal. Civ.LR 3.2; and

15 (2) **GRANTS** Plaintiff **forty-five (45)** days leave from the date this Order is
16 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; or (b)
17 complete and file a Motion to Proceed IFP. *See* 28 U.S.C. § 1915(a)(2); S.D. Cal. CivLR
18 3.2.

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 or
22 complete and submit the enclosed Motion to Proceed IFP within 45 days, this action will
23 remain dismissed without prejudice based on Plaintiff's failure to satisfy 28 U.S.C.

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26 ¹ 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 § 1914(a)'s fee requirements and without further Order of the Court.

2 **IT IS SO ORDERED.**

3 Dated: July 13, 2017



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5 Hon. Cathy Ann Bencivengo
6 United States District Judge
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