

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF DEL NORTE**

**Standing Order 13-003
Re: Dismissal of Inmate Claims after Denial of Fee Waiver Request**

On occasion, inmates at Pelican Bay State Prison file actions in Superior Court expecting to receive a full fee waiver. However Government Code section 68635 requires inmates to pay the full filing fee, which in civil actions is often more than \$400.

When an un-incarcerated, pro per plaintiff attempts to file an action and learns the cost to do so when a fee waiver application is denied, the plaintiff has the option of not filing the action rather than pay the substantial filing fee. However, under applicable laws, when the court receives a complaint or petition from an inmate, the Court is required to file the complaint or petition before collecting the filing fee.

On occasion, an inmate is taken by surprise both by the denial of the fee waiver application and the amount of the filing fee. This usually involves inmates who, if not penniless, are without more than a few dollars in their trust account. Installment payment of an inmate filing fee of more than \$400 can take years.

Until further order of the Court, the clerk shall dismiss an action and provide the relief listed in the next paragraph upon request of any plaintiff inmate who promptly requests the dismissal of an action pursuant to this order after being notified that the filing fee will not be waived. This relief is to be granted only if (1) the request for dismissal is received within 60 days of mailing of the notice to the inmate that the filing fee will not be waived, (2) no proof of service has been filed or general appearance made by any defendant, and (3) only if similar relief has not been previously provided to the inmate in any proceeding. Such relief is granted pursuant to Code of Civil Procedure section 473 based upon surprise.

If dismissal is granted pursuant to this order, the California Department of Corrections and Rehabilitation will be notified that no further collection is to be made from the inmate's trust account, and any portion of the filing fee already collected in excess of \$50.00 will be refunded. The Court will have expended substantial costs in processing such cases and any amounts collected up to \$50 will not be refunded.

DATED: _____

WILLIAM H. FOLLETT
Presiding Judge of the Superior Court

