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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN FREDERICK WHEELER,
Plaintiff,
v.
BANK OF AMERICA,
Defendant.

Case No. 1:11-cv-01270 LJO JLT

ORDER VACATING ORDERS ADOPTING
FINDINGS AND RECOMMENDATIONS
AND ISSUING JUDGEMENT AND
REOPENING CASE

(Doc. 15 & 16)

_____ /

On December 14, 2011, the assigned Magistrate Judge issued findings and recommendations, (“F&R”), recommending that this case be dismissed with prejudice and providing Plaintiff fourteen (14) days with which to file objections to the F&R. (Doc. 14.) Plaintiff however did not file objections during the fourteen day time period. On January 3, 2012, the Court adopted the F&R in full. (Doc. 15). However, on January 6, 2012, Plaintiff filed objections to the F&R and stated that he never receive the F&R. (Doc. 17.) Plaintiff requested that he be served the F&R so that he may file objections responding to the F&R. (Id.)

The Court’s docket reflects an oversight on the part of the Court, in failing to serve Plaintiff with the F&R.

Accordingly, **IT IS HEREBY ORDERED** that:

1 The Court’s order of January 3, 2012 (Doc. 15), (and accompanying Judgement in favor of Defendant (Doc. 16)), is hereby vacated, and the Clerk of the Court will reopen the

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case and;

- 2. Plaintiff will be served by mail a copy of the Findings and Recommendations of the assigned Magistrate Judge (Doc. 14); and
- 3. Within 14 days after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. If Plaintiff elects to file written objections, he should caption the document as “Objections to Magistrate Judge's Findings and Recommendations.”
- 4. Plaintiff is again advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: January 9, 2012

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE