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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARY LEE GAINES,)	Case No.: 1:16-cv-01666-AWI-BAM (PC)
)	
Plaintiff,)	ORDER VACATING FINDINGS AND
)	RECOMMENDATIONS
v.)	
)	
E. G. BROWN, et al.,)	(ECF No. 16)
)	
Defendants.)	
)	
)	
)	
)	

Plaintiff Mary Lee Gaines (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On June 7, 2017, the Court dismissed the complaint with leave to amend within thirty days after service. (ECF No. 7.) Thereafter, Plaintiff was granted three extensions of time to amend her complaint, with the most recent amended complaint due by September 7, 2017. (ECF Nos. 9, 12, 15.) Plaintiff failed to comply with those orders. Consequently, on September 14, 2017, the Court issued findings and recommendations recommending dismissal of this action for failure to state a claim, failure to obey a court order, and failure to prosecute. (ECF No. 16.)

On September 13, 2017, the Court received Plaintiff’s first amended complaint, which was not docketed until September 14, 2017. (ECF No. 17.) The declaration of service is dated September 7, 2017.

1 On October 16, 2017, Plaintiff filed objections to the September 14, 2017 findings and
2 recommendations. (ECF No. 18.) Plaintiff argues that the first amended complaint was mailed to the
3 Court by her paralegal on September 7, 2017, and therefore has complied with the Court's orders.

4 It appears that Plaintiff's amended complaint crossed in the mail with the Court's findings and
5 recommendations. In addition, based on the filing of the first amended complaint on September 13,
6 2017, the Court finds it proper to vacate its findings and recommendations.

7 Accordingly, it is HEREBY ORDERED that the findings and recommendations issued on
8 September 14, 2017 (ECF No. 16) are VACATED. Plaintiff's first amended complaint will be
9 screened in due course.

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11 IT IS SO ORDERED.

12 Dated: October 17, 2017

13 /s/ Barbara A. McAuliffe
14 UNITED STATES MAGISTRATE JUDGE
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