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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 CURTIS MCAFEE,

12 Plaintiff,

13 v.

14 PARKWAY INN MOTEL, et al.,

15 Defendants.
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Case No. 1:17 -cv-01372-DAD-SAB

ORDER VACATING NOVEMBER 22, 2017
FINDINGS AND RECOMMENDATIONS
AND GRANTING PLAINTIFF'S REQUEST
TO FILE AN AMENDED COMPLAINT

(ECF Nos. 5, 6)

THIRTY-DAY DEADLINE

17 Plaintiff Curtis McAfee ("Plaintiff"), proceeding pro se in this action, filed this civil rights
18 action pursuant to 42 U.S.C. § 1983 on October 12, 2017. (ECF No. 1.) On October 17, 2017,
19 Plaintiff's complaint was screened and dismissed with leave to amend for failure to state a claim.
20 (ECF No. 4.) Plaintiff was to file an amended complaint within thirty days of the order
21 dismissing his complaint. (Id.)

22 Plaintiff did not timely file an amended complaint and on November 22, 2017 findings
23 and recommendations were filed recommending that this action be dismissed for Plaintiff's
24 failure to comply with the October 17, 2017 order. (ECF No. 5.) The order was served on
25 Plaintiff's address of record which is general delivery at the main post office. On December 7,
26 2017, the October 17, 2017 order was returned as "Undeliverable, Attempted, not known, unable
27 to forward." On December 28, 2017, Plaintiff filed an untimely objection to the November 22,
28 2017 findings and recommendation and requested a thirty day extension of time to file an

1 amended complaint. (ECF No. 6.)

2 In this instance, the Court will excuse Plaintiff for his untimely response and failure to
3 retrieve his mail. However, Plaintiff is placed on notice that even though he is proceeding pro se
4 in this action, he is still required to comply with all federal and local rules and court orders and
5 any further failure to comply may result in sanctions up to and including dismissal of this action.

6 Based on the foregoing, IT IS HEREBY ORDERED that:

- 7 1. The Clerk of the Court is DIRECTED to re-serve the October 17, 2017 order
8 dismissing the complaint with leave to amend (ECF No. 4);
- 9 2. The findings and recommendations filed November 22, 2017 is VACATED;
- 10 3. Plaintiff's request for a thirty day extension of time to file an amended complaint
11 is GRANTED; and
- 12 4. Plaintiff is advised that if he fails to file an amended complaint in compliance
13 with this order the Court will recommend that this action be dismissed for failure
14 to state a claim and failure to comply with court orders.

15 IT IS SO ORDERED.

16 Dated: January 3, 2018

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18 UNITED STATES MAGISTRATE JUDGE
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