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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERICH KAISER,
Plaintiff,
v.
FLAGSTAR BANK, FSB,
Defendant.

No. 2:13-cv-2352 MCE KJN PS

ORDER

On February 4, 2014, the court issued an order retroactively granting plaintiff leave to file a first amended complaint, deeming plaintiff's first amended complaint filed on January 23, 2014 (ECF No. 15) as the operative complaint, denying without prejudice as moot defendants' then-pending motion to dismiss (ECF No. 9), and ordering defendant Flagstar Bank, FSB to respond to plaintiff's first amended complaint within 28 days of that order. (ECF No. 16.)

Subsequently, on February 10, 2014, plaintiff filed an opposition to the former motion to dismiss, requesting that the court deny it as moot based on plaintiff's filing of the first amended complaint. (ECF No. 17.) It is not clear whether the court's February 4, 2014 order and plaintiff's February 10, 2014 opposition merely crossed in the mail, or whether plaintiff did not receive the court's February 4, 2014 order. Regardless, in light of the court's February 4, 2014 order, plaintiff's February 10, 2014 opposition is moot and will be stricken on that basis. However, out of abundance of caution, the court will direct the Clerk of Court to again serve a

1 copy of the court's February 4, 2014 order on plaintiff.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Plaintiff's February 10, 2014 opposition (ECF No. 17) is STRICKEN as moot.

4 2. In addition to a copy of this order, the Clerk of Court shall again serve a copy of the
5 court's February 4, 2014 order (ECF No. 16) on plaintiff.

6 IT IS SO ORDERED.

7 Dated: February 12, 2014

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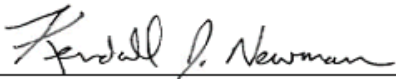
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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE