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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD E. CEARLEY,
Plaintiff,
v.
WELLS FARGO BANK,
Defendant.

No. 2:15-cv-353-MCE-EFB PS

ORDER AND FINDINGS AND
RECOMMENDATIONS

Defendant filed a motion to dismiss plaintiff’s second amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), which was noticed for hearing on June 28, 2017. ECF No. 65. Plaintiff failed to timely file an opposition or statement of non-opposition to the motion. Accordingly, the hearing was continued to July 26, 2017, and plaintiff was ordered, by no later than July 12, 2017, to file an opposition or statement of non-opposition to the motion and to show cause why sanctions should not be imposed for his failure to timely file an opposition or statement of non-opposition. ECF No. 69. Plaintiff was also admonished that failure to file an opposition would be deemed a statement of non-opposition to the granting of defendant’s motion and could result in a recommendation that this action be dismissed for lack of prosecution and/or failure to comply with court orders and the court’s local rules. *Id.*

The deadline has passed and plaintiff has not filed an opposition or statement of non-opposition to the pending motion, nor has he responded to the court’s order to show cause.

1 Accordingly, it is hereby ORDERED that the July 26, 2017 hearing on defendant’s motion
2 to dismiss and the August 9, 2017 Initial Scheduling Conference are vacated.

3 Further, it is RECOMMENDED that this action be dismissed for failure to prosecute and
4 to comply with court orders and the court’s local rules. *See* Fed. R. Civ. P. 41(b); E.D. Cal. L.R.
5 110.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, plaintiff may file written objections
9 with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings
10 and Recommendations.” Failure to file objections within the specified time may waive the right
11 to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998);
12 *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

13 DATED: July 24, 2017.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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