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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

On May 9, 2017, defendant filed a motion to dismiss plaintiff’s second amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 65. On July 24, 2017, the court recommended that this action be dismissed because plaintiff had not filed an opposition or a statement of non-opposition to the motion. ECF No. 71. Thereafter, plaintiff filed objections to that recommendation, which indicate that plaintiff did not receive a copy of defendant’s motion to dismiss. ECF Nos. 73, 74. In light of plaintiff’s representation and pro se status, the July 24, 2017 findings and recommendations are vacated, and plaintiff is granted an opportunity to respond to defendant’s motion to dismiss.

Accordingly, it is hereby ORDERED that:

1. The July 24, 2017 findings and recommendations are vacated.
2. The Clerk is directed to serve plaintiff with a copy of defendant’s motion to dismiss (ECF No. 65).

1 3. Plaintiff shall file an opposition or statement of non-opposition to defendant's motion
2 to dismiss by October 4, 2017.

3 4. Failure to file an opposition to the motion will be deemed a statement of non-
4 opposition thereto, and may result in a recommendation that this action be dismissed for lack of
5 prosecution and/or for failure to comply with court orders and this court's Local Rules. *See Fed.*
6 *R. Civ. P. 41(b).*

7 5. Defendant may file a reply to plaintiff's opposition, if any, no later than October 11,
8 2017.

9 6. Thereafter, defendant's motion to dismiss (ECF No. 65) will stand submitted for
10 decision.

11 DATED: September 13, 2017.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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