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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEPHEN JACKSON,

 Plaintiff,

 v.

CLEAR RECON CORP., BANK OF
AMERICA, N.A., Successor by merger to
BAC HOME LOANS SERVICING, LP
FKA COUNTRYWIDE HOME LOANS
SERVICING LP, STEWART TITLE, and
DOES 1-10.,

 Defendants.

No. 2:15-cv-00968 TLN AC

ORDER

 Before the court are defendant Bank of America’s motion to dismiss for lack of prosecution, ECF No. 34, which is set for hearing on June 22, 2016, and plaintiff’s subsequently filed motion to vacate, ECF No. 36, which is not noticed for hearing. Defendant’s motion is predicated on plaintiff’s failure to file a second amended complaint within the time he was ordered to so. Plaintiff’s moving papers include a Second Amended Complaint, ECF No. 36 at 9-12, which plaintiff represents was previously submitted to the court in substantial compliance with the deadline previously set. Accordingly, the court construes the filing at ECF No. 36 as a

1 motion for leave to extend the filing date for, and to file, the Second Amended Complaint. So
2 construed, but only as so construed, the motion will be granted.

3 Accordingly, having considered the pending motions, all related documents, and the
4 record in this case as a whole, and good cause appearing therefor, IT IS HEREBY ORDERED as
5 follows:

6 1. The hearing set for June 22, 2016, is VACATED;


7 2. Plaintiff's motion to vacate, ECF No. 36, is construed as a motion to file and to
8 deem timely the appended Second Amended Complaint, and as such is GRANTED. In all other
9 respects the motion is DENIED;

10 3. The Clerk of the Court is directed to file the proposed Second Amended
11 Complaint, ECF No. 36 at 9-12, as a new docket entry identified as the Second Amended
12 Complaint;

13 4. Defendant's Motion to Dismiss, ECF No. 34, is DENIED as moot;

14 5. Defendants shall file an answer or other response to the Second Amended
15 Complaint within twenty-one days of this Order.

16 DATED: June 21, 2016

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18 ALLISON CLAIRE
19 UNITED STATES MAGISTRATE JUDGE
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