1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 STEPHEN JACKSON, No. 2:15-cv-00968 TLN AC 12 Plaintiff. 13 FINDINGS AND RECOMMENDATIONS v. 14 CLEAR RECON CORP., BANK OF AMERICA, N.A., STEWART TITLE, 15 Defendants. 16 17 18 PROCEDURAL BACKGROUND 19 Plaintiff filed the complaint in this matter on April 30, 2015, ECF No. 1, and a First 20 Amended Complaint on August 24, 2015. ECF No. 6. Plaintiff is proceeding in pro se. 21 Defendant Clear Recon Corp. filed a Motion to Dismiss the First Amended Complaint on 22 December 16, 2015, ECF No. 13, and Defendant Bank of America, N.A. filed a Motion to 23 Dismiss on December 29, 2015. ECF 19. Plaintiff filed an Opposition to the Motions on January 24 19, 2016, ECF No. 26, but failed to appear at the hearing held on the Motions on February 10, 25 2016. ECF No. 29. This court filed Findings and Recommendations that the Complaint should 26 be dismissed as to both defendants with leave to amend. ECF No. 30. The district court adopted 27 the Findings and Recommendations in an Order dated April 1, 2016, and granted plaintiff 30 days 28 to file an Amended Complaint. ECF No. 33. 1

court's order, the Bank of America, N.A. moved to dismiss the complaint for failure to prosecute and for failing to comply with the district court's order, ECF No. 34, and Clear Recon Corp. filed a Joinder in that motion on May 11, 2016. ECF No. 35. Plaintiff filed a Motion to Vacate the district court's order on May 23, 2015, ECF No. 36, and an Opposition to the Motion to Dismiss on June 16, 2016, ECF No. 37. This court construed the plaintiff's Motion to Vacate as a Motion to File and to deem timely the Second Amended Complaint appended thereto, ECF No. 40, and that Complaint was filed by the Clerk of the Court on the same date pursuant to the court's order. ECF No. 41.

On May 10, 2016, no Amended Complaint having been filed in response to the district

On June 23, 2016, Bank of America filed a Motion to Dismiss, ECF No. 42, which was joined by Clear Recon Corp. on June 29, 2016. ECF No. 43. The court set the matter for hearing on August 3, 2016, which would have made the Plaintiff's Opposition, or Statement of Non-Opposition, due on July 20, 2015 under Eastern District of California No. 230(c). Plaintiff failed to Oppose these Motions. On July 28, 2016, this court issued an Order to Show Cause directing the plaintiff to demonstrate in writing why the complaint should not be dismissed with prejudice for failure to prosecute, and to file that response within 14 days of the issuance of the Order, or by August 11, 2016; the hearing date was vacated. ECF No. 45. Plaintiff failed to respond to the Order to Show Cause.

CONCLUSION

No Response to the Order having been received, this court finds that the plaintiff has failed to prosecute the action and has repeatedly failed to obey court orders. It is accordingly recommended that this matter be dismissed with prejudice.

These findings are recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty (30) days after the service of this Order any party may file written objections and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply should be served and filed within fourteen (14) days after service of the objections. The parties are advised that failure to file objections within the specified time

1	may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th
2	Cir. 1991).
3	DATED: August 12, 2016
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5	ALLISON CLAIRE
6	UNITED STATES MAGISTRATE JUDGE
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