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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY BOCHENE,  
Plaintiff,  
v.  
MFRA TRUST 2014-2,  
MFRESIDENTIALASSETS, LLC AS  
ADMINISTRATOR, et al.,  
Defendants.

No. 2:17-cv-0768 TLN DB PS

ORDER

Plaintiff Anthony Bochene is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

Plaintiff commenced this action on March 6, 2017, by filing a complaint in the Nevada County Superior Court. (ECF No. 1-1.) On May 3, 2018, the undersigned issued to plaintiff an order to show cause. (ECF No. 36.) Therein, the undersigned noted that defendant U.S. Bank has not appeared in this action and ordered plaintiff to show cause as to why that defendant should not be dismissed due to a lack of prosecution. Plaintiff filed a response on May 22, 2018. (ECF No. 37.) Therein, plaintiff asks that the court not “dismiss U.S. Bank from this lawsuit.” (Id. at 1.)

Plaintiff is advised that Rule 4 of the Federal Rules of Civil Procedure (“Rule”) provides that if a defendant is not served within 90 days after the complaint is filed the defendant must be

1 dismissed from the action without prejudice. (ECF No. 3.) The complaint in this action was filed  
2 over a year ago and plaintiff has not filed proof of service on defendant U.S. Bank.

3 Rule 4(m) provides two avenues for relief. The first is mandatory: the district court must extend time for service upon a showing of  
4 good cause. The second is discretionary: if good cause is not established, the district court may extend time for service upon a  
5 showing of excusable neglect.


6 Crowley v. Bannister, 734 F.3d 967, 976 (9th Cir. 2013) (quoting Lemoge v. United States, 587  
7 F.3d 1188, 1198 (9th Cir. 2009)).

8 Here, in light of plaintiff's pro se status, the undersigned will provide plaintiff with a final  
9 extension of time to complete, and file proof of, service on defendant U.S. Bank.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff is granted twenty-eight days from the date of this order to serve defendant  
12 U.S. Bank in compliance with Rule 4 of the Federal Rules of Civil Procedure;
- 13 2. Within 7 days of serving defendant U.S. Bank plaintiff shall file proof of service; and
- 14 3. Plaintiff is cautioned that the failure to timely comply with this order may result in a  
15 recommendation that defendant U.S. Bank be dismissed pursuant to Rule 4.

16 Dated: May 31, 2018

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19 DEBORAH BARNES  
20 UNITED STATES MAGISTRATE JUDGE

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