

1 presented to the judge, no relief under section 144 is available.” *Sibla*, 624
2 F.2d at 868.

3 As mentioned above, in this case Plaintiff failed to attach an affidavit.
4 Further, Plaintiff failed to show why this motion was not filed within ten days
5 of the case being assigned to the undersigned. The Court will give Plaintiff ten
6 days to supplement her motion to cure these deficiencies. If Plaintiff fails to
7 file the supplement, or files a supplement that does not cure the deficiencies,
8 the motion will be denied as procedurally defective.

9 Accordingly,

10 **IT IS ORDERED** that Plaintiff has leave to file a supplement to her
11 motion (Doc. 40) within 10 days. Defendant’s deadline to respond shall run
12 from the filing of the supplement, if any.

13 Doc. 42.

14 Thereafter, Plaintiff filed another motion for substitution of Judge. Doc. 43. As
15 Defendant points out in its response (Doc. 47), the motion is still procedurally defective.
16 Accordingly, it will be denied for this reason. Alternatively, it is also untimely. The Court
17 finds that Plaintiff’s justifications do not excuse the untimeliness. Thus, the motion is denied
18 for this alternative reason.

19 Finally, the Court has considered its duties under 28 U.S.C. § 455 and finds that
20 recusal is not required. For all of the foregoing reasons, the motion for substitution of judge
21 will be denied.

22 While this motion was pending, Defendant moved for summary judgment. Doc. 45.
23 The time for Plaintiff to respond to the motion has expired, and Plaintiff has not filed a
24 response. Nothing about the pendency of the motion for substitution of judge motion gave
25 Plaintiff an extension of time to respond to the motion for summary judgment. Nonetheless,
26 out of an abundance of caution that Plaintiff may have mistakenly believed that she did not
27 have to respond to the motion for summary judgment while the motion for substitution of
28 judge was pending, the Court will give Plaintiff a brief extension of this expired deadline.
If Plaintiff fails to respond within this new deadline, the Court will dismiss this case for
failure to prosecute and failure to comply with a Court order. *See* Fed. R. Civ. P. 41(b).

Based on the foregoing,

