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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ROSLYN McCOY,

No. CIV S-09-1973-LKK-CMK

Plaintiff,

vs.

ORDER

ARMY CORPS OF ENGINEERS,
et al.,

Defendants.

_____ /

Plaintiff, who is proceeding pro se, brings this civil action. The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court is also required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under these screening provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h), this court must dismiss an action “[w]henever it

1 appears . . . that the court lacks jurisdiction of the subject matter” Because plaintiff, who is
2 not a prisoner, has been granted leave to proceed in forma pauperis, the court will screen the
3 complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h), the court will also consider as a
4 threshold matter whether it has subject-matter jurisdiction.

5 In this case, plaintiff names the following as defendants: Department of the
6 Army – Army Corps of Engineers and Pete Geren.¹ Plaintiff claims that defendants violated her
7 rights under the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age
8 Discrimination Employment Act, and the Rehabilitation Act fo 1973. In particular, she
9 complains of the following conduct: (1) termination of her employment; (2) unequal terms and
10 conditions of employment; (3) retaliation; (4) failure to provide appropriate accommodations for
11 plaintiff’s disability; and (5) hostile work environment.

12 The court concludes that it has subject matter jurisdiction and that the complaint is
13 appropriate for service by the United States Marshal without pre-payment of costs. If plaintiff
14 desires service of process by the United States Marshal without pre-payment of costs, plaintiff
15 must comply with the requirements outlined below. Plaintiff is warned that failure to comply
16 with this order, or otherwise effect service pursuant to Federal Rule of Civil Procedure 4, may
17 result in dismissal of the action for lack of prosecution and failure to comply with court rules and
18 orders. See Local Rule 11-110.

19 Accordingly, IT IS HEREBY ORDERED that:

20 1. The Clerk of the Court shall update the docket to reflect that the only two
21 named defendants are: Army Corps of Engineers (a division of the Department of the Army) and
22 Pete Geren;

23 2. The Clerk of the Court shall issue a summons in a civil case, the
24

25 ¹ The docket lists Department of the Army and Army Corps of Engineers as
26 separate defendants. The Clerk of the Court will be directed to update the docket to reflect that
the correct defendant is the Army Corps of Engineers, which is a division of the Department of
the Army.

1 undersigned's new case documents, and an order setting this matter for an initial scheduling
2 conference;

3 3. The Clerk of the Court shall send plaintiff the summons, two USM-285
4 forms, and a copy of the complaint;

5 4. Within 15 days from the date of this order, plaintiff shall complete the
6 summons by indicating the addresses of the named defendants and shall submit to the United
7 States Marshal at the address indicated below the following documents:

- 8 a. The completed summons;
- 9 b. One completed USM-285 form for each named defendant;
- 10 c. Three copies of the complaint; and
- 11 d. Two copies of the court's initial scheduling conference order
12 issued herewith;

13 5. Within 20 days of the date of this order, plaintiff shall file a notice
14 indicating that the documents described above have been submitted to the United States Marshal;

15 6. The United States Marshal is directed to serve all process without pre-
16 payment of costs not later than 60 days from the date of this order, such service of process to be
17 completed by serving a copy of the summons, complaint, and initial scheduling conference order
18 on the defendants at the addresses provided by plaintiff; and

19 7. The Clerk of the Court is directed to serve a copy of this order on the
20 United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

21
22 DATED: July 27, 2009

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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