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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. Pending before the court are the following: (1) plaintiff's motion for appointment of counsel (Doc. 19); and (2) plaintiff's motion for default judgment (Doc. 23).

As to plaintiff's request for appointment of counsel, the United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent plaintiffs in civil actions. See e.g. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the

1 court does not at this time find the required exceptional circumstances.

2 As to plaintiff's request for default judgment, a review of the docket reflects that  
3 defendants filed a timely answer to the complaint on November 30, 2009. A default judgment is  
4 not appropriate.

5 Finally, because the pending motion to dismiss is not case dispositive, the  
6 scheduling conference currently set for December 17, 2009, in Redding, California shall proceed  
7 as scheduled.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion for appointment of counsel (Doc. 19) is denied;
- 10 2. Plaintiff's motion for default judgment (Doc. 23) is denied.

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12 DATED: December 14, 2009

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14 **CRAIG M. KELLISON**  
15 UNITED STATES MAGISTRATE JUDGE  
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