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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROSLYN McCOY,

NO. CIV. S-09-1973 LKK/CMK

Plaintiff,

v.

DEPARTMENT OF THE ARMY --  
ARMY CORPS OF ENGINEERS and  
HONORABLE JOHN McHUGH,  
SECRETARY OF THE ARMY,  
collectively,

O R D E R

Defendants.

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On January 21, 2011, the court ordered plaintiff to show cause why sanctions, including a fine of \$150 and/or dismissal of the case, should not issue for her counsel's failure to timely file an opposition or statement of non-opposition to defendants' motion to dismiss and improper filing of a third amended complaint. See Doc. No. 55. Counsel for plaintiff filed a response to the order to show cause on February 28, 2011. Counsel declared that he did not intend to violate this court's order, the Federal Rules of Civil Procedure, or the Eastern District of California's Local Rules. Rather, counsel explains why he misunderstood what the rules

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1 required of him.<sup>1</sup>

2 No good cause shown, the court hereby ORDERS that counsel for  
3 plaintiff is SANCTIONED in the amount of one hundred and fifty  
4 (\$150.00) dollars. This sum shall be paid to the Clerk of the Court  
5 no later than thirty (30) days from the date of this order. Counsel  
6 shall file an affidavit accompanying the payment of this sanction  
7 which states that it is paid personally by counsel, out of personal  
8 funds, and is not and will not be billed, directly or indirectly,  
9 to the client or in any way made the responsibility of the client  
10 as attorneys' fees or costs.

11 IT IS SO ORDERED.

12 DATED: March 2, 2011.

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LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

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22 <sup>1</sup> In paragraph 4 of counsel's declaration, he explains that  
23 he believed his filing of the amended complaint was timely under  
24 Fed. R. Civ. P. 15(a)(1)(B). Even if this court had not already  
25 entered a scheduling order pursuant to Fed. R. Civ. P. 16,  
26 plaintiff could not have filed her third amended complaint under  
Rule 15. Specifically, under Fed. R. Civ. P. 15(a), a party may  
only amend a pleading once as a matter of course so long as other  
criteria are met. Here, plaintiff had already amended her complaint  
once, and thus subsection (a)(1)(B) does not apply.