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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.

_____ /

On December 17, 2010, plaintiff Roslyn G. McCoy ("plaintiff") filed a second amended complaint ("SAC"). Plaintiff brings three claims in her SAC: (1) employment discrimination based on disability; (2) retaliation; and (3) declaratory judgment. On January 28, 2011, defendant John McHugh, Secretary of the Army ("defendant") moved to dismiss plaintiffs' claim for a declaratory judgment. Plaintiff failed to file an opposition or statement of non-opposition to this motion, and instead filed a third amended complaint without first seeking leave of this court to do so. The third amended complaint removed the claim for a declaratory judgment. On February 18, 2011, the court ordered plaintiff to show

1 cause why sanctions should not issue for her failure to file an
2 opposition or statement of non-opposition to the motion. The court
3 also granted defendant's motion to strike the third amended
4 complaint and instructed plaintiff to file a motion for leave to
5 file an amended complaint no later than March 3, 2011. "Failure to
6 do so will result in the court granting defendant's motion to
7 dismiss . . . with prejudice." Plaintiff responded to the order to
8 show cause, and the court subsequently sanctioned her counsel \$150.
9 Plaintiff has not moved for leave to file an amended complaint.

10 For the foregoing reasons, the court HEREBY ORDERS that
11 plaintiff's claim for a declaratory judgment is DISMISSED WITH
12 PREJUDICE.

13 IT IS SO ORDERED.

14 DATED: March 15, 2011.

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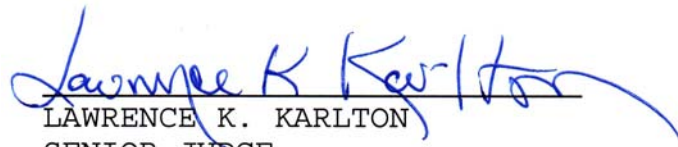
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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT