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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 BRYN RAU,

12 Plaintiff,

13 v.

14 MISSION RANCH PRIMARY CARE, et
15 al.,

16 Defendants.

Civ. No. S-13-371 KJM CMK

ORDER

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18 On June 21, 2013, the court issued an order granting defendants' motion to dismiss
19 and strike several of plaintiff's claims and denying defendants' motion for a more definite
20 statement. The court directed plaintiff to file an amended complaint within twenty-one days of
21 the date the order was filed. ECF No. 12. Plaintiff did not file an amended complaint or
22 otherwise respond to the court's order.

23 On July 18, 2013, defendants Mission Ranch Primary Care and Marcia Nelson,
24 M.D., filed an answer to the original complaint. ECF No. 14.

25 On July 31, 2013, the court issued an order directing plaintiff to show cause why
26 she should not be sanctioned by dismissal for failure to prosecute. ECF No. 15. On August 27,
27 2013, the court issued a third order, acknowledging its July 31 order had not given plaintiff
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1 time to reply but directing plaintiff to show cause within seven days why counsel should not be
2 sanctioned in the amount of \$250 for failing to respond to the court's orders. ECF No. 18.

3 On September 3, 2013, plaintiff's counsel filed a declaration, explaining that she
4 became overwhelmed with a close family member's serious illness and so did not read the court's
5 orders. She further avers that she has secured help in managing her practice so that further
6 problems do not surface. Finally she avers that she has filed the amended complaint. ECF No.
7 19.

8 Although the court will not dismiss the case for failure to prosecute, and while it is
9 not unsympathetic to her personal circumstances, it will sanction plaintiff's counsel in the amount
10 of \$250 given her repeated lapses. The court also will strike the first amended complaint. Even
11 though the court ordered plaintiff to file the amended complaint, she did not comply within the
12 prescribed time period. Thus, when defendants filed an answer on July 18, 2013, plaintiff had
13 until August 9, 2013 to file her first amended complaint without leave of court. FED. R. CIV. P.
14 15(a)(1)(B).

15 IT IS THEREFORE ORDERED that:

16 1. Plaintiff's counsel is sanctioned in the amount of \$250, payable to the court
17 within seven days. Counsel shall not pass this cost on to her client.

18 2. Plaintiff's first amended complaint, ECF No. 20, is stricken.

19 DATED: September 9, 2013.

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23 UNITED STATES DISTRICT JUDGE
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