

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CONSTANCE MARIA AGEE,
Plaintiff,
v.
THE SECRETARY OF VETERANS
AFFAIRS, et al.,
Defendants.

No. 2:15-cv-1015-TLN-KJN PS

ORDER

On August 5, 2015, the court dismissed plaintiff's complaint with leave to amend. (ECF No. 9.) The court directed plaintiff, within 28 days of that order, to file either a first amended complaint or a notice of voluntary dismissal of the action without prejudice. (Id.) Although that deadline has now passed, plaintiff failed to file either a first amended complaint or a notice of voluntary dismissal; nor has plaintiff requested an extension of time to do so.

The court has carefully considered whether the action should be dismissed at this time. Nevertheless, in light of plaintiff's *pro se* status and the court's desire to resolve the action on the merits, the court first attempts lesser sanctions in the form of an order to show cause and monetary sanctions.

Accordingly, IT IS HEREBY ORDERED that:

1. No later than October 1, 2015, plaintiff shall pay the Clerk of Court \$150.00 in


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

monetary sanctions based on her failure to comply with the court's order and failure to prosecute the case.

2. No later than October 1, 2015, plaintiff shall show cause in writing why the action should not be dismissed pursuant to Federal Rule of Civil Procedure 41(b) based on plaintiff's failure to comply with the court's order and failure to prosecute the case.
3. No later than October 1, 2015, plaintiff shall file a first amended complaint that complies with the court's August 5, 2015 order.
4. Alternatively, if plaintiff no longer wishes to proceed with the case at this time, plaintiff may file a notice of voluntary dismissal of the action without prejudice no later than October 1, 2015, in lieu of paying the above-mentioned sanctions, responding to the order to show cause, and filing a first amended complaint.
5. Failure to timely comply with this order may result in dismissal of the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b).
6. The Clerk of Court shall serve another copy of the court's prior August 5, 2015 order on plaintiff along with this order.

IT IS SO ORDERED.

Dated: September 9, 2015


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE