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19 AMERICAN PROPERTY MANAGEMENT, INC.

20 UNITED STATES DISTRICT COURT

21 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

22 Case No. 1:18-cv-00352-AWI-SKO

23 JESSICA BARRIOS,

24 Plaintiff,

25 vs.

26 AMERICAN PROPERTY MANAGEMENT,
27 INC. and DOES 1 through 10 inclusive,

28 Defendants.

**STIPULATION AND ORDER TO DISMISS
INDIVIDUAL CLAIMS WITH
PREJUDICE AND REMAND THIS
ACTION TO STATE COURT**

1 On October 7, 2019, the parties filed the following stipulation:
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3 This Stipulation and Proposed Order is entered into between Plaintiff Jessica Barrios (“Plaintiff”)
4 and Defendant American Property Management, Inc. (“Defendant”) (Plaintiff and Defendant all
5 collectively, the “Parties”), by and through their counsel of record, as follows:

6 WHEREAS Plaintiffs filed a complaint alleging class and individual claims against Defendant in
7 the Superior Court of California for the County of Stanislaus, Case No. 2028910 on February 9, 2018
8 including claims for unlawful discrimination based on sex and wrongful termination in violation of
9 public policy;

10 WHEREAS Defendant removed Plaintiff’s lawsuit to the United States District Court for the
11 Eastern District of California on approximately March 12, 2018 solely based on diversity jurisdiction
12 under 28 U.S.C. § 1332 and on the value of Plaintiff’s individual claims, with the remaining state law
13 class claims being maintained through supplemental jurisdiction pursuant to 28 U.S.C. § 1367;

14 WHEREAS the Parties have met and conferred regarding these matters and agreed that
15 Plaintiffs’ individual claims for unlawful retaliation, unlawful discrimination based upon sex, and
16 wrongful termination in violation of public policy (Plaintiff’s tenth, eleventh, and twelfth causes of
17 action) should be dismissed with prejudice;

18 WHEREAS these dismissed claims were the basis for satisfying the amount in controversy
19 requirements of original jurisdiction pursuant to 28 U.S.C. § 1332;

20 WHEREAS the Parties have met and conferred regarding these matters and agreed that
21 supplemental jurisdiction of the remaining state law claims should be denied pursuant to 28 U.S.C. §
22 1367(c)(2)-(3), *Rodriguez v. Emeritus Corp.*, 2018 U.S. Dist. LEXIS 151295 (E.D. Cal. 2018), and
23 *Ayala v. Infinity Ins. Co.*, 2010 U.S. Dist. LEXIS 75591 (C.D. Cal. 2010) and that the Court should
24 remand the lawsuit back to the Superior Court of California for the County of Stanislaus, Case No.
25 2028910;

26 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
27 Parties, subject to the approval of the Court, as follows:

28 1. That Plaintiff’s tenth, eleventh, and twelfth causes of action should be dismissed with
prejudice;

1 2. That the Court should decline supplemental jurisdiction of Plaintiff's remaining state law
2 class action claims;

3 3. That this case will be remanded to the Superior Court of California for the County of
4 Stanislaus, Case No. 2028910.

5 IT IS SO STIPULATED.

6
7 Dated: October 7, 2019

LAW OFFICE OF THOMAS P. HOGAN

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10 By: /s/ Shawnte Priest
11 Thomas P. Hogan
12 Shawnte Priest
13 (As Authorized 10/6/19)
14 Attorneys for Plaintiff

15
16 Dated: October 7, 2019

SHIMODA LAW CORP.

17 By: /s/ Justin P. Rodriguez
18 Galen T. Shimoda
19 Justin P. Rodriguez
20 Brittany V. Berzin
21 Attorneys for Plaintiff

22
23 Dated: October 7, 2019

LEWIS BRISBOIS BISGAARD & SMITH LLP

24 By: /s/ Derek S. Sachs
25 Derek S. Sachs
26 (As Authorized 10/7/19)
27 Adam P. Smith
28 Attorneys for Defendant

After consideration, the Court will give effect to the above stipulation.

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ORDER

ACCORDINGLY, IT IS HEREBY ORDERED that:

- 1. Plaintiff's tenth, eleventh, and twelfth causes of action are dismissed with prejudice;
- 2. Pursuant to 28 U.S.C. § 1367(c), having dismissed Plaintiff's tenth, eleventh, and twelfth causes of action, the Court declines supplemental jurisdiction of Plaintiffs' remaining claims, which solely arise under state law; and
- 3. This case is REMANDED back to the Stanislaus County Superior Court, Case No. Case No. 2028910; and
- 4. The Clerk shall CLOSE this case and send a certified copy of this Order to the clerk of the Stanislaus County Superior Court, pursuant to 28 U.S.C. § 1447(c).

IT IS SO ORDERED.

Dated: October 7, 2019



SENIOR DISTRICT

JUDGE