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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Jose Arnulfo Arias,
Plaintiff,
v.
Anthony Raimondo; and DOES 1- 20,
inclusive,
Defendant.

No. 2:13-cv-00904-TLN-EFB

ORDER

On March 30, 2015, this Court dismissed Plaintiff Jose Arnulfo Arias's ("Plaintiff") Fair Labor Standards Act ("FLSA") claim from Plaintiff's First Amended Complaint ("FAC") (ECF No. 34) and invited him to refile an amended complaint within 14 days. (ECF No. 54.) Plaintiff has since filed a notice that he will "stand upon the sufficiency of his First Amended Complaint." (ECF No. 55 at 1.) Plaintiff has failed to file an amended complaint curing the deficiencies in his FAC, thus the Court DISMISSES Plaintiff's FLSA claim. His remaining state law claims are hereby DISMISSED for lack of subject matter jurisdiction.

I. FACTUAL BACKGROUND

In a separate action beginning in 2006, Plaintiff sued his former employers, the Angelos, for violations of wage and hour laws. (ECF No. 34 at ¶ 2.) During the course of the previous litigation between Plaintiff and the Angelos, the Angelos's attorney, Anthony Raimondo reported

1 Plaintiff to United States Immigration and Customs Enforcement (“ICE”). (ECF No. 34 at ¶ 3.)
2 Now, in the instant lawsuit, Plaintiff is suing the Angelos’s attorney, Anthony Raimondo
3 (“Defendant”) alleging that by reporting Plaintiff to ICE, Defendant: (1) violated the Fair Labor
4 Standards Act; (2) committed intentional infliction of emotional distress; and (3) violated
5 California’s unfair competition law. (ECF No. 34.)

6 Plaintiff filed a First Amended Complaint on July 10, 2010, which Defendant
7 subsequently asked the Court to dismiss. (ECF No. 35.) This Court dismissed Plaintiff’s FLSA
8 claim on March 30, 2015, holding that the claim could not stand because an employee may only
9 sue employers for retaliation and Plaintiff had not yet alleged that Defendant was an employer
10 within the definition of the FLSA. (ECF 54. at 5.) The Court gave Plaintiff fourteen days to file
11 an amended complaint, which Plaintiff failed to do. On April 6, 2015, Plaintiff filed a statement
12 electing to stand upon the sufficiency of his First Amended Complaint. (ECF No. 55.)

13 II. ANALYSIS

14 The Court previously dismissed Plaintiff’s FLSA claim. (ECF No. 54.) Plaintiff has not
15 amended his FLSA claim with sufficient facts to remedy any deficiencies, thus the claim is
16 dismissed with prejudice.

17 After the dismissal of Plaintiff’s FLSA claim, only his state law claims remain pending.
18 (ECF No. 34.) Therefore, the Court may sua sponte decide whether to continue exercising
19 supplemental jurisdiction. *See Acri v. Varian Assocs., Inc.*, 114 F.3d 999, 1001 n.3 (9th Cir.
20 1997) (en banc). Under 28 U.S.C. § 1367(c)(3), a district court “may decline to exercise
21 supplemental jurisdiction over a [state law] claim” if “the district court has dismissed all claims
22 over which it has original jurisdiction” “Since state courts have the primary responsibility
23 for developing and applying state law, the [law does] not favor retaining jurisdiction in this case.”
24 *Yuhre*, 2010 U.S. Dist. LEXIS 44948, at *22 (citing *Acri*, 114 F.3d at 1001). Therefore, the Court
25 declines to continue exercising supplemental jurisdiction over Plaintiff’s remaining state law
26 claims and they are dismissed without prejudice under 28 U.S.C. § 1367(c)(3).

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III. CONCLUSION

Plaintiff's First Amended Complaint is DISMISSED in its entirety. Accordingly, this case shall be closed.

IT IS SO ORDERED.

Dated: April 15, 2015



Troy L. Nunley
United States District Judge