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UNITED STATES DISTRICT COURT  
Northern District of California

OLUCHI NNACHI,

Plaintiff(s),

No. C 09-04099 MEJ

v.

CITY & COUNTY OF SAN FRANCISCO,

**ORDER GRANTING DEFENDANT'S  
MOTION TO DISMISS (DKT #14)**

Defendant(s).  
\_\_\_\_\_ /

Pending before the Court is Defendant City & County of San Francisco's Motion to Dismiss, filed November 23, 2009. (Dkt. #14.) Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for disposition without oral argument and hereby VACATES the January 7, 2010 hearing. Having considered the parties' papers and the relevant legal authority, the Court hereby GRANTS Defendant's motion to dismiss as follows:

- 1) Plaintiff's claim under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, is dismissed without leave to amend because Plaintiff received a right-to-sue letter from the EEOC on November 18, 2008, but failed to file this action within 90 days of receiving the letter. Failure to file suit in 90 days is ground for dismissal of the action. *Gonzalez v. Stanford Applied Engineering, Inc.*, 597 F.2d 1298, 1299 (9th Cir. 1979); *see also* 42 U.S.C. § 2000e-5(f)(1).
- 2) Plaintiff's cause of action for obstruction of justice is also dismissed without leave to amend because this claim is a criminal offense, and there is no legal basis for civil liability against Defendant. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1482 (9th Cir. 1997).
- 3) As Plaintiff's remaining claims are based in state law, the Court declines to exercise jurisdiction over them. "Where a district court dismisses a federal claim, leaving only state

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claims for resolution, it should decline jurisdiction over the state claims and dismiss them without prejudice." *Wade v. Regional Credit Ass'n*, 87 F.3d 1098, 1101 (9th Cir. 1996) (citing *Les Shockley Racing v. Nat'l Hot Rod Ass'n*, 884 F.2d 504, 509 (9th Cir. 1989)). Accordingly, all remaining claims are dismissed without prejudice. The Clerk of Court shall close the file.

**IT IS SO ORDERED.**

Dated: December 28, 2009

  
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Maria-Elena Jones  
Chief United States Magistrate Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

OLUCHI NNACHI,

Plaintiff,

v.

CITY & COUNTY OF SAN FRANCISCO et al,

Defendant.

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Case Number: CV09-04099 MEJ

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 28, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Oluchi Nnachi  
784 Alcatraz Avenue  
Oakland, CA 94609

Dated: December 28, 2009

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk