

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENNY JACKSON,

No. C-10-03906 JCS

Plaintiff,

**ORDER DISMISSING AMENDED COMPLAINT
[Docket No. 9]**

v.

NEW UNITED MOTOR MFG. INC., et
al.,

Defendants.

On November 19, 2010, the Court dismissed Plaintiff’s complaint with leave to amend, pursuant to 28 U.S.C. § 1915(e)(2). In its Order, the Court stated that it was unable to discern any legally cognizable claim in Plaintiff’s complaint, noting as well that: 1) to the extent that Plaintiff was asserting a tort claim based on denial of worker’s compensation benefits, Plaintiff had not alleged any basis for federal jurisdiction; and 2) the actions complained of appeared to have occurred in 1995, indicating that Plaintiff’s claims were untimely.

On December 17, 2010, Plaintiff filed an amended complaint alleging that he was wrongfully terminated on the basis of an injury he suffered while on the job, in 1995. The amended complaint is devoid of any allegations suggesting that Plaintiff’s claim is timely, and it is apparent from the face of the complaint that it is not. Further, although Plaintiff asserts violations of the Due Process Clause of the Fifth and Fourteenth Amendments, as well as the Eighth Amendment prohibition on cruel and unusual punishment, there are no factual allegations suggesting that Plaintiff has stated any such claim in his amended complaint.

Therefore, the Court DISMISSES Plaintiff’s amended complaint with prejudice. The Clerk

1 is instructed to close the file in this case.

2 IT IS SO ORDERED.

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4 DATED: January 3, 2011

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JOSEPH C. SPERO
United States Magistrate Judge