

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
28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIAMANDEEP GOSAL,
Plaintiff,

No. C 16-601 CRB

**ORDER RE MOTIONS TO STRIKE
AND DISMISS**

v.


SAVE MART SUPERMARKETS,
ET AL.,
Defendants.

On calendar for Friday, January 6, 2017, are three motions in this case: (1) a motion to dismiss Defendant Zeke Lozano (dkt. 46); (2) a motion to dismiss Plaintiff Mandeep Gosal's counterclaim (dkt. 38); and (3) a motion to strike Gosal's amended answer to Defendants' counterclaim (dkt. 39). The Court finds this matter suitable for resolution without oral argument, pursuant to Civil Local Rule 7-1(b), VACATES the motion hearing currently set for January 6, 2017, SETS a status conference for the same time on January 6, 2017, and rules as follows.

The Court DENIES the motion to dismiss Lozano: the Court deems service in this case proper, rejects the suggestion that Plaintiff failed to prosecute Lozano, and holds that the sixth and seventh causes of action state a claim against Lozano. The Court GRANTS Defendants' motion to dismiss Gosal's counterclaim, as indemnification under Cal. Labor

1 Code § 2802 is not cognizable here, and the remaining counterclaims lack merit. The Court
2 SEVERES and STAYS Defendants' counterclaim (dkt. 19),¹ and therefore also STAYS
3 Defendants' motion to strike Gosal's amended answer to that counterclaim.

4 **IT IS SO ORDERED.**



5
6 Dated: December 21, 2016

CHARLES R. BREYER

7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28 _____
¹ The Court also STAYS any discovery related to that counterclaim.