

United States District Court  
Northern District of California

RUBEN SUMERA,  
Plaintiff,  
v.  
ERIC HOLDER,  
Defendant.

Case No.: 4:13-cv-1950-KAW

ORDER REQUIRING PLAINTIFF TO  
SUBMIT SUPPLEMENTAL BRIEFING

United States District Court  
Northern District of California

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On May 9, 2014, Plaintiff filed an opposition to the motion to dismiss pending in this case. (Pl.'s Opp'n, Dkt. No. 32.) In his opposition, Plaintiff concedes that (1) the only proper defendant is Attorney General Eric Holder, in his official capacity, (2) his prayer for punitive damages should be dismissed, and (3) "the constitutional claims outside the EEOC exhaustion process [Bivens] are not cognizable as to this former federal employee, absent an independent basis for such a claim which on these facts does not appear." (Id. at 2.)

He also asserts that his remaining claims, as exhausted, are viable, but he does not address Defendant's argument that several allegations in the complaint go outside the scope of the EEOC charge. (Id.) He also fails to address whether, under the current Iqbal-Twombly pleading standard, the complaint contains sufficient factual matter to state a claim for relief that is plausible on its face.

In light of these deficiencies in Plaintiff's opposition, the Court orders Plaintiff to provide supplemental briefing on the issues mentioned above. Plaintiff shall submit a supplemental brief of no more than 10 pages by June 6, 2014. The Court reminds Plaintiff that continued failures to comply with filing deadlines will not be tolerated.

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The June 5, 2014 hearing on the motion to dismiss is hereby vacated.

IT IS SO ORDERED.

Dated: May 30, 2014

  
KANDIS A. WESTMORE  
United States Magistrate Judge