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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROGELIO SANCHEZ,)	Case No. 08-CV-5723-LHK
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF'S
)	MOTION TO DISMISS FLSA CLAIMS
v.)	WITH PREJUDICE AND TO DISMISS
)	STATE LAW CLAIMS WITHOUT
)	PREJUDICE
CARLOS JIMENEZ,)	
)	[re: docket no. 27]
Defendant.)	
)	

Plaintiff Rogelio Sanchez has moved to dismiss his claims under the federal Fair Labor Standards Act (FLSA) with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and to dismiss his remaining state law claims without prejudice pursuant to 28 U.S.C. §1367(c)(3). Pl. Mot. to Dismiss [dkt. #27]. For the reasons set forth below, Plaintiff's motion is granted.

Plaintiff is correct that a court order is required by Rule 41(a)(2) because Defendant has filed a responsive pleading. Under Rule 41(a)(2), "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper."

1 The Court finds that it is proper to dismiss Plaintiff's FLSA claims with prejudice.
2 Defendant, though having more than three months to do so, has not objected to Plaintiff's motion.
3 Moreover, the Plaintiff informs the Court that "it is undisputed that insufficient evidence exists to
4 show that the Defendant has attained the requisite \$500,000 in gross revenue to support the
5 applicability of the FLSA." Pl. Mot. to Dismiss 6 [dkt. #27]. Thus, Plaintiff's FLSA claims are
6 dismissed with prejudice.
7

8 Having dismissed Plaintiff's federal claims with prejudice, the Court declines to continue
9 exercising supplemental jurisdiction over Plaintiff's remaining state law claims. *See* 28 U.S.C.
10 §1367(c)(3) (providing that a district court may decline to exercise supplemental jurisdiction if "the
11 district court has dismissed all claims over which it has original jurisdiction."). Accordingly,
12 Plaintiff's state law claims are dismissed without prejudice.
13

14 **IT IS SO ORDERED.** The Clerk shall close this file.

15
16 Dated: August 12, 2010



LUCY H. KOH
United States District Judge