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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HECTOR DE LEON, et al.,
Plaintiffs,
v.
MASTRIA INCORPORATED, et al.,
Defendants.

Case No. [5:17-cv-00626-EJD](#)

ORDER GRANTING MOTION TO DISMISS

Re: Dkt. No. 48

Plaintiffs brought the instant lawsuit against Defendants, alleging that Defendants failed to pay them overtime pay in violation of the Fair Labor and Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.* and various state law provisions. Dkt. No. 9. Presently before the Court is a motion to dismiss filed by Plaintiffs seeking dismissal of their claim under FLSA. Dkt. No. 48. Defendants do not oppose this motion. Dkt. No. 50.

“[A] litigant may abandon a claim by communicating his desire to do so to the district court.” *Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1094 (9th Cir. 2011). At the same time, FLSA’s provisions are mandatory and “FLSA rights cannot be abridged by contract or otherwise waived because this would ‘nullify the purposes’ of the statute.” *Barrentine v. Arkansas-Best Freight Sys., Inc.*, 450 U.S. 728, 740, 101 S. Ct. 1437, 1445 (1981). Accordingly, in light of the parties’ apparent agreement but mindful of the mandatory nature of FLSA, the Court will DISMISS Plaintiff’s FLSA claim WITHOUT PREJUDICE.

A district court may decline to exercise supplemental jurisdiction over a claim if the district court has dismissed all claims over which it has original jurisdiction. 28 U.S.C.

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§ 1367(c)(3). Having dismissed Plaintiffs’ only federal law claim, the Court declines to exercise supplemental jurisdiction over Plaintiffs’ remaining state law claims. These claims are DISMISSED WITHOUT PREJUDICE.

The Clerk shall close this file.

IT IS SO ORDERED.

Dated: July 18, 2018


EDWARD J. DAVILA
United States District Judge