

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DANIEL DELACRUZ,
Plaintiff,
v.
TANIMURA & ANTLE, INC., et al.,
Defendants.

Case No. 23-cv-03034-VKD

**ORDER RE TAI DEFENDANTS'
MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

Re: Dkt. No. 40

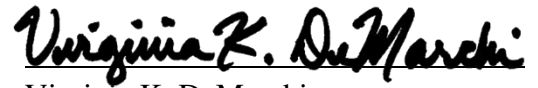
Plaintiff Daniel Delacruz, who is representing himself, filed this action against defendants Tanimura & Antle, Inc. (“TAI”), Mike Antle, and Carmen Ponce (collectively, “TAI defendants”) and Claudia Quirarte, asserting, among other things, unlawful disability discrimination under the Americans with Disabilities Act (“ADA”). Dkt. No. 1. On prior motions filed by Ms. Quirarte and the TAI defendants, the Court dismissed Mr. Delacruz’s complaint, with leave to amend only as to the ADA claim against Ms. Quirarte. With respect to the TAI defendants, the Court dismissed all of Mr. Delacruz’s federal claims without leave to amend, and dismissed his state law claims without prejudice. *See* Dkt. Nos. 28, 29.

Mr. Delacruz filed a first amended complaint (“FAC”) in which he asserts only state law claims against the TAI defendants—namely, a claim for violation of his privacy rights under Article I, § 1 of the California Constitution (claim 3) and for breach of contract/“[o]rder to [s]how [c]ause [r]e [s]pecific [p]erformance and [i]njunctive [r]elief” (claim 4). Dkt. No. 34. The TAI defendants move to dismiss the FAC pursuant to Rule 12(b)(1) and Rule 12(b)(6). Dkt. No. 40. In a separately filed order on Ms. Quirarte’s motion to dismiss the FAC, the Court has dismissed all of Mr. Delacruz’s federal claims, with limited leave to amend, and declined to exercise

1 jurisdiction over any state law claims for relief. Inasmuch as the FAC asserts only state law
2 claims against the TAI defendants, the Court dismisses those claims without prejudice either to
3 (1) re-filing those claims against those defendants in the appropriate state court or (2) reasserting
4 them in a Second Amended Complaint in this Court, but only to the extent that Mr. Delacruz
5 believes he can adequately plead a federal claim for relief, consistent with the limited scope of
6 leave to amend as stated in the Court's order on Ms. Quirarte's motion to dismiss the FAC.

7 **IT IS SO ORDERED.**

8 Dated: May 9, 2024

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11 Virginia K. DeMarchi
12 United States Magistrate Judge
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