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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VINCENT GENOSA, an individual,

Plaintiff,

v.
GLOBAL K9 PROTECTION GROUP,
LLC, an Alabama Limited Liability
Corporation, and DOES 1 through 10,

Defendant.

GLOBAL K9 PROTECTION GROUP,
LLC, an Alabama Limited Liability
Corporation, and DOES 1 through 10,

Counterclaim Plaintiff,

v.
VINCENT GENOSA, an individual,

Counterclaim Defendant.

Case No.: 3:24-cv-00063-AJB-BLM

ORDER:

**(1) GRANTING SUMMARY
JUDGMENT IN FAVOR OF
DEFENDANT ON CLAIMS 1 AND 2
OF PLAINTIFF’S COMPLAINT;**

**(2) DECLINING TO EXERCISE
JURISDICTION OVER THE
REMAINING STATE CLAIMS AND
COUNTERCLAIM;**

**(3) DENYING AS MOOT ALL
OTHER PENDING MOTIONS; and**

(4) CLOSING CASE.

(Doc. Nos. 12, 19, 26)

1 Before the Court are Global K9 Protection Group, LLC’s (“Defendant”) and Vincent
2 Genosa’s (“Plaintiff”) cross-motions for summary judgment in this employment action.
3 (Doc. Nos. 12, 19.) The parties have filed their respective oppositions and replies. (Doc.
4 Nos. 22, 23, 24, 25.) Also pending is an ex parte application to file a sur-reply and a
5 response thereto. (Doc. Nos. 26, 27.) The Court finds the matters suitable for determination
6 on the papers and without oral argument, and hereby **VACATES** the previously scheduled
7 motion hearing on April 10, 2025. *See* Local Civ. R. 7.1.d.1

8 For the following reasons, the Court **GRANTS** Defendant’s motion for summary
9 judgment on Claims 1 and 2 of Plaintiff’s Complaint, declines to exercise supplemental
10 jurisdiction over, and thereby **DISMISSES WITHOUT PREJUDICE**, the remaining
11 state claims and counterclaim, and **DENIES AS MOOT** all other pending motions.

12 **I. BACKGROUND**

13 Plaintiff worked for Defendant from November 2018 to February 2021. At the time
14 of his employment, Plaintiff served in the California Army National Guard and requested
15 military leaves of absence to fulfill his service. Defendant granted all of Plaintiff’s requests
16 for military leave. And contrary to its written policy that military leaves of absence are
17 unpaid, Defendant compensated Plaintiff during such leave. When Defendant realized its
18 error in 2020, it informed Plaintiff of the overpayment and sought to recoup it. Defendant
19 asked Plaintiff to sign a Voluntary Payroll Deduction Authorization Form by a deadline
20 and informed him that he would be terminated if he did not sign the form. Plaintiff sent
21 Defendant a resignation letter two days before the deadline.

22 On January 9, 2025, Plaintiff filed a Complaint with this federal court pleading
23 federal-question jurisdiction and the following causes of action: (1) discrimination in
24 violation of California Military and Veterans Code § 389; (2) discrimination in violation
25 of 38 U.S.C. § 4311; (3) retaliation in violation of California Labor Code § 1102.5; and (4)
26 wrongful termination in violation of public policy. (Doc. No. 1, Compl. at 1, 3–7.)
27 Defendant thereafter filed an Answer and Counterclaim to the Complaint, asserting a state
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1 counterclaim for “Common Count: Money Had and Received.” (Doc. No. 6 at 8–9.) The
2 instant cross-motions for summary judgment follows.

3 **II. DISCUSSION**

4 Defendant moved for summary judgment on all four of Plaintiff’s causes of action,
5 arguing that he cannot establish the elements of his claims. Pertinent here, Plaintiff’s
6 opposition focused solely on his state retaliation and wrongful termination claims and
7 unequivocally stated that “[he] does not oppose Defendant’s motion as to his first two
8 claims for violations of the California Military Veteran’s Code, or 38 U.S.C. § 4311” (Doc.
9 No 22 at 4.) As Plaintiff concedes to Defendant’s request for dismissal of his discrimination
10 claims under California and federal law as without merit, the Court dismisses those claims
11 with prejudice and grants Defendant’s motion for summary judgment in this respect.

12 There being only state-law claims and counterclaim remaining in this suit, the Court
13 considers whether to continue exercising supplemental jurisdiction over them. “A court
14 may decline to exercise supplemental jurisdiction over related state-law claims once it has
15 ‘dismissed all claims over which it has original jurisdiction.’” *Ove v. Gwinn*, 264 F.3d 817,
16 826 (9th Cir. 2001) (quoting 28 U.S.C. § 1367(c)(3)). The court’s decision to decline to
17 exercise supplemental jurisdiction over state-law claims under 28 U.S.C. § 1367(c) is
18 informed by “values of economy, convenience, fairness, and comity.” *Acri v. Varian*
19 *Assocs., Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997) (internal quotations and citations omitted).
20 Additionally, the Supreme Court has stated, and the Ninth Circuit has repeated, that “in the
21 usual case in which all federal-law claims are eliminated before trial, the balance of factors
22 will point toward declining to exercise jurisdiction over the remaining state-law claims.”
23 *Id.* (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988) (alterations
24 omitted).

25 Having dismissed Plaintiff’s cause of action under 38 U.S.C. § 4311—the only claim
26 arising out of federal law—the Court declines to exercise supplemental jurisdiction over
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1 the remaining state-law claims and counterclaim.¹ As noted, the Court may dismiss pendent
2 state-law claims if, as here, all federal claims are dismissed before trial. *See*
3 *Carnegie-Mellon Univ.*, 484 U.S. at 350 n.7. Moreover, the Court has not expended
4 significant judicial resources on this matter beyond resolving the threshold concessions in
5 the parties’ cross-motions for summary judgment. Little substantive activity concerning
6 the state-law claims and counterclaim have occurred, and the parties may refile in state
7 court the same pleadings and briefs they have filed here. *See Artis v. D.C.*, 583 U.S. 71, 75
8 (2018) (interpreting 28 U.S.C. § 1367(d) and holding that the statute pauses the clock on a
9 statute of limitations until 30 days after the state law claim is dismissed by the federal
10 court). Lastly, as a matter of comity, this Court is a court of limited jurisdiction that should
11 defer to the state court on the labor and employment issues that are clearly within that
12 court’s jurisdiction and expertise.

13 Thus, in the exercise of its discretion under 28 U.S.C. § 1367(c)(3), this Court
14 declines to assert supplemental jurisdiction over Plaintiff’s remaining state-law claims for
15 retaliation and wrongful termination and Defendant’s state-law counterclaim for common
16 count. Accordingly, the Court dismisses those claims without prejudice to refile in the
17 appropriate state forum. *See* 28 U.S.C. § 1367(d).

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22 ¹ The Court notes that as Plaintiff has elected to abandon his claim under 38 U.S.C. § 4311, he has, in
23 effect, withdrawn it from the operative complaint. In a recent case, *Royal Canin U.S.A., Inc. v.*
24 *Wullschleger*, the Supreme Court explained that regardless of whether a case was removed or originally
25 filed in federal court, “the plaintiff’s excision of [his] federal-law claims deprives the district court of its
26 authority to decide the state-law claims remaining.” 604 U.S. 22, 43 (2025). The case involved a plaintiff
27 who amended her complaint to delete all the federal law claims and left nothing but state-law claims
28 behind. *Id.* at 25. Here, because Plaintiff’s withdrawal of his federal claim effectively amends the
complaint and leaves nothing but state-law claims behind, he has arguably divested the Court of its
authority to hear the remaining claims and counterclaim. *See id.* at 36 (“If a plaintiff files a suit in federal
court based on federal claims and later scraps those claims, the federal court cannot go forward with a
now all-state-claim suit.”). The Court need not, and will not, decide this issue, however, as it dismisses
the remaining claims pursuant to 28 U.S.C. § 1367(c)(3).

1 **III. CONCLUSION**

2 For the reasons stated herein, the Court hereby orders:

- 3 • Defendant’s motion for summary judgment is **GRANTED IN PART.**
4 (Doc. No. 12). The Court enters summary judgment in favor of
5 Defendant and against Plaintiff on his discrimination claims under
6 California Military and Veterans Code § 389 (Claim 1) and under 38
7 U.S.C. § 4311 (Claim 2). These claims are **DISMISSED WITH**
8 **PREJUDICE.**
- 9 • Pursuant to 28 U.S.C. § 1367(c)(3), the Court **DECLINES** to exercise
10 supplemental jurisdiction over the remaining state-law claims for
11 retaliation (Claim 3) and wrongful termination (Claim 4) and
12 counterclaim for common count. These claims are **DISMISSED**
13 **WITHOUT PREJUDICE.**
- 14 • All other pending motions are **DENIED AS MOOT**, (Doc. Nos. 19,
15 26), and all upcoming hearings or deadlines in this matter are
16 **VACATED.**
- 17 • The Clerk of Court is directed to enter judgment accordingly and
18 close this case.

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20 **IT IS SO ORDERED.**

21 Dated: March 10, 2025

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23 Hon. Anthony J. Battaglia
24 United States District Judge
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