

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

HECTOR TORO,

Plaintiff,

v.

Case No: 6:20-cv-1867-ACC-LRH

ACME BARRICADES, L.C.,

Defendant.

ORDER

This cause comes before the Court on Defendant Acme Barricades L.C.’s Motion to Dismiss Plaintiff’s Complaint or, in the Alternative, Motion for More Definite Statement. (Doc. 11). On October 9, 2020, Plaintiff Hector Toro filed a two-count complaint against Defendant Acme Barricades, L.C., alleging a violation of the Families First Coronavirus Response Act and the Emergency Paid Sick Leave Act, as well as a retaliation claim.¹ (Doc. 1); *see* 29 C.F.R. §§ 826.20, 826.150.

On November 5, 2020, Defendant filed its Motion to Dismiss, which was referred to Magistrate Judge Hoffman who, on January 28, 2021, submitted a report recommending that the Motion to Dismiss be granted and Plaintiff be permitted to file an amended complaint. (Doc. 20). Neither party has filed an objection to the

¹ Plaintiff’s claims both arise under the Fair Labor Standards Act (“FLSA”) because an employer’s failure to provide paid sick leave under the Emergency Paid Sick Leave Act is considered a failure to provide minimum wage in violation of the FLSA, 29 U.S.C. § 206, and the claim as well as the retaliation claim are enforced under the FLSA. 29 C.F.R. § 826.150(b)(1).

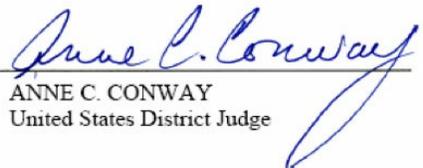
Report and Recommendation. Instead, Plaintiff filed an Amended Complaint (Doc. 22) within the time allowed under the Case Management and Scheduling Order, *i.e.*, March 5, 2021. (Doc. 20).

Based on the foregoing, it is **ORDERED** as follows:

1. To the extent the Report and Recommendation recommends that the Court permit Plaintiff to file an Amended Complaint, the Report and Recommendation (Doc. 20) is **ADOPTED** and **CONFIRMED** and made a part of this Order. In all other respects, the Report and Recommendation is **DENIED as moot**.

2. Defendant Acme Barricades L.C.'s Motion to Dismiss Plaintiff's Complaint or, in the Alternative, Motion for More Definite Statement (Doc. 11) is **DENIED** without prejudice to refile in response to the Amended Complaint (Doc. 22), if applicable.

DONE and **ORDERED** in Chambers, in Orlando, Florida on February 16, 2021.


ANNE C. CONWAY
United States District Judge

Copies furnished to:

Counsel of Record