

Salinas failed to raise his claims for color and gender discrimination and for a failure to rehire in his Charge of Discrimination filed with the Equal Employment Opportunity Commission. He asserts these claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (Title VII) and under the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq.* (ADA). Both of these statutes require a plaintiff to exhaust his administrative remedies regarding employment discrimination claims with the Equal Employment Opportunity Commission before filing a lawsuit in federal court. See Tyler v. Univ. of Arkansas Bd. of Trustees, 628 F.3d 980, 989 (8th Cir. 2011) (Title VII) and Moses v. Dassault Falcon Jet-Wilmington Corp., 894 F.3d 911, 919 (8th Cir. 2018) (ADA). Salinas failed to raise these claims in his charge with the Equal Employment Opportunity Commission. As a result, I will grant Defendants' motion to dismiss these claims for Salinas' failure to exhaust his administrative remedies.

In their motion to dismiss Defendants also requested that I order Salinas to file an amended complaint if I granted the motion to dismiss. That is not necessary. Defendants can file an answer based on Salinas' original complaint.

Accordingly,

IT IS HEREBY ORDERED that Defendants' motion to dismiss Plaintiff Luis S. Salinas's claims for color and gender discrimination and for a failure to

rehire [14] is **GRANTED**.

IT IS FURTHER ORDERED that Defendants' motion for an order directing Salinas to file an amended complaint [14] is **DENIED**. Defendants shall file an answer to the complaint no later than **May 7, 2021**.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 26th day of April, 2021.