

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED

FEB 24 2016

Clerk, U.S. District Court
District Of Montana
Helena

AARON FRANK,

Plaintiff,

No. CV 15-26-BU-SEH

vs.

**MEMORANDUM AND
ORDER**

TOWN OF WEST YELLOWSTONE,
MONTANA; COLE PARKER, in his
individual and official capacity; JOHN
COSTELLO, in his individual and
official capacity; GREG FORSYTHE,
in his individual and official capacity;
and BRAD SCHMIER, in his
individual and official capacity,

Defendants.

INTRODUCTION

This case arises from the Amended Complaint and Demand for Jury Trial¹ of Plaintiff Aaron Frank (“Frank”) filed in this Court on June 23, 2015.

On November 30, 2015, the Court held a hearing on Defendants’ Motions to Dismiss for which Defendants Cole Parker, John Costello, Greg Forsythe, and Brad Schmier (the “Councilmen”) and Defendant Town of West Yellowstone (the

¹ See Doc. 4.

“Town”) sought partial dismissal of Counts I, II, IV, V, VI, and IX against the Town and dismissal of all counts against the Councilmen.² Upon the record made in open court, the Court dismissed all claims against the Town’s Councilmen in their official and individual capacities. It also dismissed Counts I, II, III, IV, V, VI, and IX. On January 13, 2016, the Court dismissed Frank’s constructive discharge claim under the Wrongful Discharge from Employment Act (“WDEA”).³ The remaining claim against the Town is a state law claim that arises under Mont. Code Ann. §§ 39-3-205 and 39-3-206.⁴ On January 29, 2016, Frank filed Plaintiff’s Motion to Remand the Wage Protection Claim to State Court.⁵

DISCUSSION

A district court has discretion in deciding whether to adjudicate state law claims following the disposition of federal claims.⁶ It is within a district court’s discretion to remand the state law claims to federal court.⁷ Moreover, “a remand may best promote the values of economy, convenience, fairness, and comity.”⁸

² See Doc. 5.

³ See Doc. 26.

⁴ See Doc. 4 at 52-54.

⁵ See Doc. 34.

⁶ See *Harrell v. 20th Century Ins. Co.*, 934 F.2d 203, 205 (9th Cir. 1991) (citing *Nishimoto v. Federman-Bachrach & Assoc.*, 903 F.2d 709, 712 (9th Cir. 1990)).

⁷ *Id.*

⁸ *Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 353 (1988).

Here, all federal claims that established federal question jurisdiction have been dismissed.⁹ The only remaining is a claim that is based on state law.

ORDERED:

1. Plaintiff's Motion to Remand the Wage Protection Claim to State Court¹⁰ is GRANTED. This case is remanded to the Montana Eighteenth Judicial District Court, Gallatin County.

2. Defendant Town of West Yellowstone's Motion for Summary Judgment¹¹ is DENIED as moot.

3. Plaintiff, Aaron Frank's Cross-Motion for Partial Summary Judgment¹² is DENIED as moot.

DATED this 24th day of February, 2016


SAM E. HADDON
United States District Judge

⁹ See Docs. 19 and 26.

¹⁰ Doc. 34.

¹¹ Doc. 27

¹² Doc. 39.