UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Leonardo Dualan, et al.,

Plaintiffs,

vs.

Jacob Transportation Services, LLC,

Defendant.

Case No.: 2:14-cv-1135-JAD-NJK

Order Dismissing Valerie Kalekini's Claims and Denying Motion to Amend Caption [Docs. 54, 60]

Plaintiff/counterdefendant Valerie Kalekini's attorney was permitted to withdraw.[1] Now *pro se*, Kalekini no longer wants to be part of this litigation because she cannot afford counsel, and she moves to dismiss her claims.[2] The remaining parties filed a notice of non-opposition to Kalekini's motion or offer no response at all. Federal Rule of Civil Procedure 41(a)(2) allows "an action [to] be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. . . . Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice."[3] I find Kalekini's unopposed motion to dismiss has merit and should be granted. Accordingly, I dismiss Kalenkini's claims without prejudice under Rule 41(a)(2).

Remaining plaintiffs Leonardo Dualan, Zoltan Nemeth, and Jamin Vergara also seek to amend the caption of the complaint to reflect Kalekini's exclusion.[4] But amending the caption will not fully accomplish this goal because Kalekini is mentioned in the body of the complaint. Accordingly, I deny the motion without prejudice to the remaining plaintiffs' ability to file a motion to amend that attaches the proposed amended complaint in compliance with Local Rule 15-1.

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[1] Doc. 40 (minutes).

[2] Doc. 54.

[3] Doc. 59. Additionally, "if a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication." *Id.* While Jacob has pled counterclaims, they are all asserted against defendant Nemeth. *See* Doc. 35. In any event, Jacob has not objected to Kalekini's motion to dismiss. Under Local Rule 7-2(d), "The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion."

[4] Doc. 60.

Conclusion

Accordingly, it is HEREBY ORDERED that plaintiff Valerie Kalekini's Motion to Dismiss **[Doc. 54] is GRANTED**. Kalekini's claims are DISMISSED without prejudice.

It is FURTHER ORDERED that remaining plaintiffs Leonardo Dualan, Zoltan Nemeth, and Jamin Vergara's Motion to Amend Caption **[Doc. 60] is DENIED** without prejudice.

DATED: May 26, 2015.

Jennifer A. Dorsey
United States District Judge