



1 to individuals over the age of forty (40). 29 U.S.C. § 631(a).  
2 Plaintiff failed to allege that he is over forty, and his opposition  
3 (#11) does not address this oversight. As such, Plaintiff's  
4 complaint (#1) fails to sufficiently allege age discrimination under  
5 the ADEA. Plaintiff will be granted leave to amend, and should  
6 provide more specific factual allegations relating to his  
7 discrimination and retaliation claims.

8 Defendants also contest the inclusion of Washoe County Health  
9 District as a defendant in this action. Under Nevada law, an action  
10 may be brought against "the State of Nevada or any political  
11 subdivision of the state." NEV. REV. STAT. § 41.031(2). In Wayment v.  
12 Holmes, the Nevada Supreme Court found that the Washoe County  
13 District Attorney's Office "is not a suable entity because it is a  
14 department of Washoe County, not a political subdivision." 912 P.2d  
15 816, 819 (Nev. 1996). "The State of Nevada has not waived immunity  
16 on behalf of its departments of political subdivisions." Id. As  
17 such, the Washoe County Health District must be dismissed from this  
18 action.

19 Finally, Defendants argue that the individual defendants in  
20 this case must be dismissed, as there is no individual liability  
21 under the ADEA. Miller v. Maxwell's Intern. Inc., 991 F.2d 583,  
22 587-88 (9th Cir. 1993). Plaintiff "concedes Miller is the precedent  
23 in the 9th Circuit" although Plaintiff urges this Court to hold that  
24 Miller is incorrect. Miller is binding precedent on this Court, and  
25 furthermore, other courts, both at the district court level and at  
26 the circuit level, have cited Miller with approval. See, e.g.,  
27 Fantini v. Salem State College, 557 F.3d 22, 30 (1st Cir. 2009)

1 ("[a]fter reviewing the analysis fashioned by all of our sister  
2 circuits, we . . . determine as they have that there is no  
3 individual employee liability under Title VII"); Lam v. San  
4 Francisco, No. C 08-4702 PJH, 2010 WL 235081, at \*9 (N.D. Cal. Jan.  
5 21, 2010) ("the Ninth Circuit has made clear that 'Title VII . . .  
6 limit[s] civil liability to the employer.'" (citation omitted). As  
7 such, the individual defendants in this case must be dismissed.

8  
9 **IT IS, THEREFORE, HEREBY ORDERED** that Defendants' Motion to  
10 Dismiss (#7) is **GRANTED**. Defendants Washoe County Health District,  
11 Mary Anderson, Robert Sack, and Dave McNinch are not proper  
12 defendants to this case and are dismissed from the action.  
13 Furthermore, Plaintiff's claims against Washoe County must be  
14 dismissed for failure to state a claim upon which relief may be  
15 granted.

16 **IT IS FURTHER ORDERED** that Plaintiff shall have twenty-eight  
17 (28) days within which to file an amended complaint addressing the  
18 deficiencies noted in our Order.

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21 DATED: March 30, 2012.

22   
23 UNITED STATES DISTRICT JUDGE