

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ISRAEL BORGES, : : : : :
Plaintiff, : : : : :
-against- : : : : :
HELDRICH ASSOCIATES LLC D/B/A THE : : : : :
HELDRICH HOTEL AND SPA, and BMC–THE : : : : :
BENCHMARK MANAGEMENT COMPANY, : : : : :
Defendants. : : : : :
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WILLIAM F. KUNTZ, II, United States District Judge

Israel Borges (“Plaintiff”) brings this action against Defendants Heldrich Associates LLC d/b/a The Heldrich Hotel and Spa (“Defendant Heldrich”), BMC–The Benchmark Management Company (“Defendant BMC”), and Sani Systems, Ltd. for injuries he sustained while cleaning a kitchen stove at The Heldrich Hotel. Plaintiff and Sani Systems, Ltd. filed a Stipulation of Discontinuance, with prejudice, as to Sani Systems, Ltd. only on April 15, 2010. Stipulation of Discontinuance as to Defendant Sani Systems, Ltd. Only, Dkt. No. 21.

In June 2012, the remaining Defendants filed a Choice of Law motion, arguing New Jersey law applies to both conduct-regulating and loss-allocating issues. Defs.’ Mot. for Choice of New Jersey Law, Dkt. No. 64. Two months later, the remaining Defendants filed a motion *in limine* to dismiss Plaintiff’s New York Labor Law causes of action. Defs.’ Mot. *in Limine* to Dismiss Pl.’s Causes of Action Premised on N.Y. Labor Law, Sections 200 and 241(6), Dkt. 75.

On August 30, 2012, this Court granted Defendants' Choice of Law motion, holding that New Jersey law applies to the conduct-regulating and loss-allocating issues in this case. *Borges v. Heldrich Assocs.*, 09-cv-4830, 2012 WL 3779214 (E.D.N.Y. Aug. 30, 2012) (Kuntz., J.). As a result, both Plaintiff and Defendants now concede that Defendants' motion to dismiss Plaintiff's New York Labor Law causes of action is moot since any labor law claims would have to be brought under New Jersey law. Defs.' Reply to Pl.'s Opp. To Motion *in Limine* to Dismiss Pl.'s Causes of Action Premised on N.Y. Labor Law, Dkt. No. 84; Pl.'s Reply to Defs.' Mot. *in Limine* to Dismiss Pl.'s N.Y. Labor Law Claims, Dkt. No. 87.

This Court agrees with the parties, and hereby orders that Plaintiff's New York Labor Law causes of action are dismissed. In addition, the Court dismisses as moot Defendants' motion *in Limine* to Dismiss Pl.'s Causes of Action Premised on N.Y. Labor Law.

SO ORDERED

Dated: Brooklyn, New York
February 25, 2013

s/WFK

~~HON. WILLIAM F. KUNTZ, II~~
United States District Judge