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IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
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BROOKLYN OFFICE
(B)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ZENON VALDEZ,

Plaintiff,

MEMORANDUM & ORDER

-against-

11-CV-5256 (SLT) (RLM)

STEVEN RUBENSTEIN and STRATFORD
ENVIRONMENTAL,

Defendants.

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TOWNES, United States District Judge:

This Court issued a Memorandum & Order, dated November 17, 2011 dismissing pro se Plaintiff's complaint to the extent he sought to relitigate claims filed in state court or to enforce a judgment entered in state court. Further, the Court directed Plaintiff to show cause why the action, construed by the Court as a Fair Labor Standards Act claim, should not be dismissed as time-barred. Plaintiff was directed to file an affirmation in response to the November 17, 2011 order. The Court received Plaintiff's affirmation on November 30, 2011.

Plaintiff's complaint filed on September 23, 2011, arising from Defendants' alleged failure to pay him the prevailing wage for work he performed in 1993 and 1994, is time-barred. Plaintiff's affirmation does not present a basis for equitable tolling. Plaintiff appears to argue that his claim should not be dismissed as time-barred because Defendants still owe him \$6140.00 and the claim is, therefore, "still open." However, this Court has already dismissed Plaintiff's complaint to the extent he seeks to relitigate state court claims or enforce a state court judgment. Accordingly, it is:

Chm

ORDERED, ADJUDGED, AND DEGREED: That this action is dismissed. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.


SANDRA L. TOWNES
United States District Judge

Dated: December 7, 2011
Brooklyn, New York