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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JAMES HAMILTON,

7 Plaintiff,

8 v.

9 REIGN PROMOTIONS, LLC, et al.,

10 Defendants.

CASE NO. C13-5161 BHS

ORDER DENYING
DEFENDANT'S MOTION TO
DISMISS

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12 This matter comes before the Court on Defendant Joe Hernandez's ("Hernandez")
13 motion to dismiss (Dkt. 34). The Court has considered the pleadings filed in support of
14 and in opposition to the motion and the remainder of the file and hereby denies the
15 motion for the reasons stated herein.

16 **I. PROCEDURAL HISTORY**

17 On March 6, 2013, Plaintiff James Hamilton ("Hamilton") filed a complaint
18 alleging personal injuries. Dkt. 1. On June 20, 2013, Hamilton filed an amended
19 complaint against Reign Promotions, LLC ("Reign"), Hernandez, and Darren Andy
20 alleging personal injuries suffered at one of Reign's mixed martial arts events. Dkt. 18.
21 Hamilton asserts a cause of action for negligence against Hernandez. *Id.*, ¶ 4.1.
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1 On August 6, 2013, Hernandez filed a motion to dismiss. Dkt. 34. On August 26,
2 2013, Hamilton responded. Dkt. 35.

3 II. DISCUSSION

4 In Washington, the statute of limitations for intentional torts is two years and the
5 statute of limitations for negligence claims is three years. RCW 4.16.080, 4.16.100.

6 In this case, Hernandez argues that Hamilton's claims are barred by the statute of
7 limitations. Dkt. 34. It is undisputed that Hamilton filed the complaint approximately
8 two and one half years after the alleged incident. Hernandez contends that Hamilton
9 should not be allowed to disguise his intentional assault claims as negligence to avoid the
10 statute of limitations for intentional torts. Dkt. 34 at 4. Hamilton, however, counters that
11 Hernandez unintentionally injured Hamilton when Hernandez was acting to protect a
12 third party, Kerry Hernandez. Dkt. 35 at 5-7. This is a plausible theory of negligence.

13 III. ORDER

14 Therefore, it is hereby **ORDERED** that Hernandez's motion to dismiss (Dkt. 34)
15 is **DENIED**.

16 Dated this 18th day of September, 2013.

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BENJAMIN H. SETTLE
20 United States District Judge
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