

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALICIA MARSHALL, DANIEL PRONSKY,
PARIS TOWNSEND, NANCILEE HOLLAND,
LEONA OWSLEY, KOLAWOLE AHMADOU,
KIANA DERVIN, KRISTINA HENDERSON,
DUSTIN INNIS, KELLY STALNAKER,
JAMIE JONES, GEORGINA DREVNAK,
JOHN MARTIN, EZRA BEATTIE, GREGORY
LLOYD, ALYSHIA JOHNSON, LAMETRIA
MARVEL, GUY GRICHAR, JAHBRAEL
HORNE, ENOBONG ETUKNWA, and
SHARON BRADLEY SMITH, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

PRESTAMOS CDFI, LLC and CHICANOS
POR LA CAUSA, INC.,

Defendants.

Civil Action No. 5:21-cv-04337-JMG

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT CHICANOS POR LA
CAUSA, INC.'S MOTION TO DISMISS PLAINTIFFS' THIRD AMENDED
COMPLAINT**

On December 5, 2023, the Court dismissed Chicanos Por La Causa, Inc. (“CPLC”) as a defendant for lack of personal jurisdiction. ECF No. 93. The Court spoke in unequivocal terms: “the Clerk of Court is **DIRECTED** to **TERMINATE** the case as it pertains to **Defendant CPLC.**” *Id.* (emphasis in original). In direct defiance of this Order, Plaintiffs have now named CPLC as a defendant in their Third Amended Complaint (“TAC”). Plaintiffs seek to justify inclusion of CPLC as a defendant (i) “to the extent relevant to Plaintiffs’ claims against defendant Prestamos,” and (ii) “to preserve Plaintiffs’ rights in the event of an appeal.” ECF 108 (TAC).

Both grounds are baseless. Even assuming CPLC’s actions are “relevant” to the claims against Prestamos,” that does not require or warrant naming CPLC as a defendant now that the Court has already dismissed CPLC for lack of jurisdiction. Plaintiffs can simply refer to CPLC in its allegations. Nor do plaintiffs offer any legal authority permitting, let alone requiring, them to add CPLC in order to “preserve Plaintiffs’ rights in the event of an appeal.”

Plaintiffs’ appellate rights are preserved by the “final judgment rule,” which provides that that “a party is entitled to a single appeal, to be deferred until final judgment has been entered, in which claims of district court error *at any stage of the litigation* may be ventilated.” *Digital Equipment Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 868 (1994) (emphasis added); *see also* 28 U.S.C. § 1291; Fed. R. Civ. P. 54(b) (“[A]ny order . . . that adjudicates fewer than all the claims . . . does not end the action as to any of the claims or parties” unless “the court expressly determines that there is no just reason for delay” and certifies the order as final). *Carter v. City of Philadelphia*, 181 F.3d 339, 343 (3d Cir. 1999) (“Ordinarily, an order which terminates fewer than all claims, or claims against fewer than all parties, does not constitute a ‘final’ order for purposes of appeal under 28 U.S.C. § 1291.”).

Accordingly, it is neither necessary nor appropriate for Plaintiffs to include an already-dismissed defendant like CPLC in a subsequent iteration of their complaint in order to be able to appeal the dismissal. Just like Plaintiffs’ state-law statutory claims that the Court dismissed earlier in the litigation, Plaintiffs’ claims against CPLC do not need to be continually re-pled to preserve Plaintiffs’ right to appeal their dismissal.

Plaintiffs’ unsupported attempt to reinsert CPLC into the case mirrors their previous attempt to justify CPLC’s inclusion in this case, which, the Court noted, failed to cite legal authority supporting their position. ECF No. 93 (Order) at 2 n.1. As the Court previously

explained regarding Plaintiffs’ jurisdictional arguments, “[t]he Court relies on litigants to address substantive matters in a meaningful manner.” *Id.* The Court observed that Plaintiffs identified “no legal authority” demonstrating that any of the facts elicited during jurisdictional discovery supported personal jurisdiction over CPLC. *Id.* Plaintiffs’ TAC does nothing to cure this fatal defect, nor does it allege any additional facts that could support personal jurisdiction over CPLC.

For the same reasons identified and explained in CPLC’s Motion to Dismiss the SAC and Memorandum of Law in Support thereof, ECF No. 84, as well as the Court’s December 5, 2023 Order dismissing CPLC for lack of personal jurisdiction, ECF No. 93, the Court should yet again dismiss CPLC from this action with prejudice.

Dated: May 15, 2024

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