IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ROBERT D. EHART,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 02-1618-SLR
	)	
ODESSA FIRE COMPANY, BY AND THROUGH ITS BOARD OF DIRECTORS, ET AL.,	)	
	)	
Defendants.	)	

Robert C. McDonald, Esquire of Silverman, McDonald & Friedman, Wilmington, Delaware. Counsel for Plaintiff.

David R. Hackett, Esquire of Griffin & Hackett, P.A., Georgetown, Delaware. Counsel for Defendants.

MEMORANDUM OPINION

Dated: February 2, 2005
Wilmington, Delaware

ROBINSON, Chief Judge

I. INTRODUCTION

Plaintiff Robert D. Ehart filed the present action against defendants Odessa Fire Company ("the Fire Company"), by and through its Board of Directors (collectively "the defendants"), alleging defendants: (1) violated plaintiff's procedural and substantive due process rights; (2) selectively prosecuted and discriminated against plaintiff because of his political and personal views; (3) breached their contract with plaintiff; and (4) intentionally inflicted emotional distress on plaintiff. (D.I. 1 at 7-9) Currently before the court is defendants' motion to dismiss and/or for summary judgment. (D.I. 41) This court has jurisdiction over the present matter pursuant to 28 U.S.C. § 1331. For the reasons set forth below, the court grants defendants' motion.

II. BACKGROUND

Plaintiff was admitted to the membership of the Fire Company on March 13, 2000. (D.I. 42 at 5) During his time with the Fire Company plaintiff served as a firefighter and an emergency medical technician. (D.I. 42 at 4)

The Fire Company is incorporated under the general corporation laws of the State of Delaware. (D.I. 1 at 2; D.I. 22 at 2; D.I. 43, ex. A) It is managed by a Board of Directors duly elected by the membership. (D.I. 22 at 2) Members of the Fire

Company are entitled to participate in the Delaware Volunteer Fireman's Pension Plan, established under Chapter 66A of Title 126 of the Delaware Code, after ten years of full-time active duty. (D.I. 22 at 2) The State provides no contributions to these pension plans. (Id.) The Fire Company members may also enroll in the Line of Duty Disability Benefits to Covered Firefighters Plan pursuant to Chapter 67 of Title 18 of the Delaware Code. (Id. at 3) Benefits paid to a member for permanent disability under the Disability Plan are exempt from State tax pursuant to Del. C. Ann. tit. 18, § 6708. (Id.) Training is provided to members of the Fire Company by the Delaware State Fire School pursuant to Del. C. Ann. tit. 16, § 6613. (Id.) Fire School attendance fees are paid by defendants. (Id.) The Delaware State Fire School is under the control of the State Fire Prevention Commission pursuant to Del. C. Ann. tit. 16, § 6613. (Id.) The Fire Company's equipment, apparatus and operations are funded by donations from the Odessa community and special purpose appropriations from State and local governments. (D.I. 42 at 6)

Section 8 of the Fire Company's bylaws pertains to suspension, termination and expulsion from membership. According to Section 8:

> For reasons, as listed below, any member may be expelled by an affirmative vote of a majority of members present and voting at any regular or special meeting provided such member has been notified by certified letter, at least

thirty (30) days prior to the meeting at which action is taken, stating the charges against him/her and advising him/her to be present to offer any defense he/she so desires.

Any member that has been expelled from The Odessa Fire Company, shall not be permitted to re-apply for membership for two (2) years from the date of such expulsion.

(D.I. 42 at 6; D.I. 43, ex. B)

Section 8A outlines the reasons for termination and expulsion:

1). Conviction of a criminal offense as defined by the Title 11, Delaware Code;
2). Conviction of a felony crime;
3). Not being of proper age to join;
4). Application not being filled out honestly;
5). Failure to complete the physical as required by the fire company;
6). Failure to complete the Hepatitis 'B' program as required by the fire company.
7). Membership will also be terminated upon receipt of a letter of resignation.
8). Conduct unbecoming a member of the Odessa Fire Company.
9). Obstructing the business of this Company, bearing false witness or conspiring against it.

(D.I. 42 at 6-7; D.I. 43, ex. B)

On February 12, 2002 defendants sent plaintiff a letter informing him that charges were brought against him and that he was suspended until a full investigation was completed. (D.I. 46, ex. C) According to the letter: "When the investigation is completed there will be a special Directors [sic] meeting, which you will be invited to come and address these allegations. This invitation will be in writing." (Id.) Defendants' February 12th letter did not inform plaintiff of the specific charges brought

against him. (Id.; D.I. 1 at 5)

The Board of Directors conducted an investigation and held a Directors' meeting on March 4, 2002. (D.I. 1 at 5; D.I. 42 at 7) Prior to the meeting the Directors drafted a statement of charges against plaintiff. (D.I. 43 at A-3, ex. C) At the request of the Board of Directors, plaintiff and his counsel met with the Directors on March 4th to review the statement of charges. (D.I. 43 at A-3) Plaintiff was given a copy of the statement of charges against him at this March 4th meeting. (Id.; D.I. 46, exs. D, E)

On March 4, 2002 plaintiff's counsel wrote defendants a letter claiming that defendants had violated plaintiff's due process. (D.I. 1 at 5) On March 5, 2002 defendants notified plaintiff, via certified letter, of a regular meeting of the Fire Company membership scheduled for April 8, 2002, at which plaintiff's expulsion from membership would be considered. (D.I. 42 at 7; D.I. 46, ex. D) The letter advised plaintiff to be present to offer any defense he had. (Id.)

On April 8, 2002, a majority of the members of the Fire Company voted to expel plaintiff from the membership of defendant. (D.I. 22 at 5)

III. STANDARD OF REVIEW

Because defendants referred to matters outside the pleadings, their motion to dismiss shall be treated as a motion

for summary judgment. See Fed. R. Civ. P. 12(b)(6). A court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden of proving that no genuine issue of material fact exists. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). "Facts that could alter the outcome are 'material,' and disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct." Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then "must come forward with 'specific facts showing that there is a genuine issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion." Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). The mere existence of some evidence in support of the nonmoving party, however, will not be sufficient for denial of a motion for summary judgment; there

must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986)

IV. DISCUSSION

Plaintiff has brought two federal claims against defendant: (1) violation of plaintiff's procedural and substantive due process; and (2) violation of the Equal Protection Clause by "selectively prosecut[ing] and discriminat[ing] against [] plaintiff." (D.I. 1 at 7-8) Plaintiff's federal claims arise under 42 U.S.C. § 1983[1] ("Section 1983"). Section 1983 imposes liability on any person who, under color of state law, deprives another of any rights secured by the Constitution or the laws of

[1] Section 1983 states:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .

42 U.S.C. § 1983 (2004).

the United States. 42 U.S.C. § 1983 (2004). A prima facie case under Section 1983 requires a plaintiff to demonstrate: (1) a person, acting under color of state law; (2) deprived plaintiff of a federal right. Groman v. Township of Manalapan, 47 F.3d 628, 633 (3d Cir. 1995).

A. Acting Under Color of State Law

Plaintiff has failed to establish that defendants acted under color of state or territorial law. In Rendell-Baker v. Kohn, the Supreme Court rejected claims similar to those of plaintiff under circumstances similar to the present action. 457 U.S. 830 (1982). In that case the plaintiff, Rendell-Baker, was a vocational counselor at New Perspectives School,[2] a high school for "maladjusted" students. Id. at 831-33. The defendant, Kohn, was the director of the school. Id. at 831. Rendell-Baker was fired shortly after becoming involved in a dispute with Kohn over the role of a student-staff council in the hiring of new teachers. Id. at 834. She then filed suit under Section 1983 alleging she had been discharged in violation of her

[2] New Perspectives School was a private institution operated by a board of directors, none of whom were public officials or were chosen by public officials. 47 F.3d at 832. Public funds accounted for at least 90%, and in one year 99%, of the school's operating budget. Id. To be eligible for tuition funding the school had to comply with a variety of regulations concerning matters ranging from recordkeeping to student-teacher ratios to maintaining written job descriptions and written statements describing personnel standards and procedures. Id. at 833. Thus, in several respects New Perspectives School was similar to defendant Odessa Fire Company.

Constitutional rights. Id. at 834-35.

The Rendell-Baker Court identified three factors[3] which were relevant to determining whether New Perspective School acted under color of state law: (1) the extent to which the State funded the school; (2) the extent to which the challenged activity was regulated by the State; and (3) whether the school performed a public function. Id. at 840-42. The Court considered each of these factors in determining that New Perspectives School did not act under color of state law. Id. at 840-43.

In Rendell-Baker the Court found that, although virtually all of the school's income was derived from government funding, the school's receipt of public funds did not make the discharge decision acts of the State. Id. at 841. In the present matter plaintiff has presented evidence that in 2002, the Fire Company received $340,070.94 in funds from the State of Delaware Department of Insurance. (D.I. 45 at 11; D.I. 46, exs. F, G)

[3] The Court also identified a fourth factor, namely whether the school had a symbiotic relationship with the State. 457 U.S. at 842-43. This factor arises from the case of Burton v. Wilmington Parking Authority, where the Supreme Court found that because a restaurant was located on public property and its rent contributed to the support of a public garage, the restaurant's refusal to serve African Americans constituted state action. 365 U.S. 715 (1961). The Rendell-Baker Court dismissed this factor, holding that no such relationship existed between the New Perspectives School and the State. Similarly, this court finds that there is no symbiotic relationship between the Odessa Fire Department and the State of Delaware.

While this does show that the Fire Company receives funding from the State, it does not show the extent of funding by the State (i.e., the percent of the Fire Company's budget that is paid by the State). Furthermore, defendants showed that not all funding for the Fire Company comes from the State. According to defendants, apparatus and operations are also funded by donations from the community the Fire Company serves. (D.I. 42 at 6; D.I. 43 at A-2) Consequently, this factor marshals against finding that defendants acted under color of state law.

Second, the Rendell-Baker court held that New Perspective School's decisions to discharge the petitioners were not compelled or even influenced by any state regulation. 457 U.S. at 841. The Court did not consider the numerous other regulations the school had to satisfy in order to be eligible for tuition funding. In the present matter plaintiff has pointed to several Delaware State Statutes, none of which regulate the Fire Company's decision to terminate plaintiff's membership. (D.I. 45 at 7) (admitting "the State does not directly regulate the policies regarding personnel matters in the Fire Company . . . .") Furthermore, the statutes that plaintiff relies upon create minimal regulation.[4] Consequently, the second factor also

[4] Plaintiff claims that the Fire Company is regulated by the State Fire Commission pursuant to Delaware Code Chapter 16, Section 6619. Section 6619 gives the State Fire Commission the power to: (1) authorize new fire companies; (2) prevent the suspension of fire services; (3) resolve disputes of geographical

marshals against finding defendants acted under color of state law.

Finally, the Rendell-Baker court found that New Perspective School's actions were not traditionally the exclusive prerogative of the State. 457 U.S. at 842. According to the Court:

> There can be no doubt that the education of maladjusted high school students is a public function, but that is only the beginning of the inquiry. Chapter 766 of the Massachusetts Acts of 1972 [which regulated New Perspectives School] demonstrates that the State intends to provide services for such students at public expense. That legislative policy choice in no way makes these services the exclusive province of the State. Indeed, the Court of Appeals noted that until recently the State had not undertaken to provide education for students who could not be served by traditional public schools. That a private entity performs a function which

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boundaries; and (4) resolve grievances between fire companies. None of these powers control the internal operations of fire companies. The power to authorize a new fire company or prevent suspension of fire services does not equate to controlling the daily activities of a fire company. Furthermore, plaintiff claims that Delaware Code Chapter 16, Section 6613 requires fire company members to be trained at the Delaware State Fire School. (D.I. 45 at 7) However, Section 6613 merely creates a state fire school and does not require anyone to be certified by the school. Plaintiff also points to Chapter 16, Section 6712 as evidence that ambulance attendants and emergency medical technicians must be certified by the state. (D.I. 45 at 7) However, the certification process consists of obtaining and reviewing an applicant's criminal records to make sure the applicants did not commit any serious crimes. This amounts to minimal regulation since all that is required is a cursory examination of records as a prerequisite to occupying a certain position within a fire company. Finally, plaintiff points to Chapter 16, Section 6711 as evidence that the State governs the operational procedures of fire companies. (D.I. 45 at 7) Section 6711 gives the State Fire Commission the power to inspect ambulances and make sure that they are properly equipped and satisfy operation standards. Once again, this does not amount to substantial control since this section only provides basic standards for one of the services provided by fire companies.

serves the public does not make its acts state action. Id. at 842. Defendants submitted evidence that, outside the City of Wilmington, fire protection services in Delaware are provided by private volunteer fire companies. (D.I. 43 at A-3) Furthermore, "[p]rior to December 1, 1921, the various fire companies of the City of Wilmington were private companies, owning their own fire houses, engines, and equipment, and the City in its corporate existence, took no part in their management and control." State ex rel. Volunteer Firemen's Relief Ass'n v. Mayor of Wilmington, 134 A. 694, 694 (Del. Super. 1926), rev'd on other grounds, Aetna Cas. & Sur. Co. v. Smith, 131 A.2d 168 (Del. 1957). Thus, with the exception of the City of Wilmington, firefighting in Delaware has never been traditionally the exclusive prerogative of the State.[5]

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[5] Plaintiff relies on Goldstein v. Chestnut Ridge Volunteer Fire Co., 984 F. Supp. 367 (D. Md. 1997), in support of his argument that defendants were state actors. (D.I. 45 at 9) However, in Goldstein the court stated:

> Even if a defendant is deemed to be a state actor, a second inquiry should be made as to whether the conduct at issue in the litigation peculiarly relates to the defendant's performance of a public function. Under this approach a routine employment decision, alleged to have been motivated by unlawful discriminatory animus . . . would not be actionable under section 1983 . . . .
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> That limiting doctrine is of no help to Chestnut Ridge in this case, however. Plaintiff alleges that he was disciplined, suspended, and terminated for informing Chestnut Ridge that several of its members lacked necessary training and qualifications. Clearly, these alleged communications directly related to the public function which

The evidence presented in the present matter indicates that all three of the factors identified by the Rendell-Baker Court favor finding defendants did not act under color of state law. Consequently, plaintiff has failed to present evidence creating a genuine issue as to whether defendants acted under color of state law.

B. Deprivation of a Federal Right

Even if the defendants were found to be acting under color of state law, plaintiff has failed to demonstrate that defendants violated any federal right.

1. Due Process

Plaintiff claims that he was denied due process because he was not given adequate prior notice of the charges against him before the hearing at which he was expelled. Consequently, plaintiff's claim is for violation of procedural due process.[6] A

> Chestnut Ridge performs. Accordingly, adverse employment actions taken in reaction to them fall within the purview of section 1983.

Id. at 373. Plaintiff, however, does not allege that he was fired for communications related to the public function which defendants perform. Consequently, Goldstein is uninstructive in the present matter.

[6] Plaintiff also alleges in his complaint that defendants violated his substantive due process rights by not affording him a fair and proper hearing. (D.I. 1 at 7-8) However, all of the facts that plaintiff provides in the complaint relate to deviations from the procedure set out in defendant Odessa Fire Company's bylaws. (D.I. 1 at 5-7) Furthermore, plaintiff begins the due process section of his opposition by stating: "The requirements of procedural due process apply only to the

plaintiff bringing suit under Section 1983 alleging a state actor deprived him of procedural due process must demonstrate: (1) the plaintiff has a life, liberty, or property interest subject to Fourteenth Amendment protection; and (2) the procedures available did not provide plaintiff with due process of law. Alvin v. Suzuki, 227 F.3d 107, 116 (3d Cir. 2000).

Plaintiff alleges that he had a property interest[7] in his membership with the Fire Company. (D.I. 45 at 12) In Versarge v. Township of Clinton, the Third Circuit considered whether the

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deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." Plaintiff does not even mention substantive due process in his opposition. Finally, under substantive due process, when there is no fundamental right involved, the court must determine whether the governmental action is rationally related to a legitimate state interest. Rogin v. Bensalem Township, 616 F.2d 680, 689 (3d Cir. 1980). Termination of membership in a volunteer fire company does not implicate a fundamental right, meaning defendants' actions must only be rationally related to a legitimate objective. Defendants' actions (e.g., mailing letters updating plaintiff of status, holding meetings to investigate claims, conducting an open hearing to revoke membership) were rationally related to the legitimate objective of ensuring good behavior among its members.

[7] "Property interests . . . are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law . . . ." Board of Regents v. Roth, 408 U.S. 564, 569 (1972); see also Gikas v. Wash. School Dist., 328 F.3d 731, 737 n.4 (3d Cir. 2003). "[M]embership in a voluntary association is generally viewed as a privilege that may be withheld not as a right that may be independently enforced." Capano v. Wilmington Country Club, No. 18037-NC, slip op. at 4 (Del. Ch. Nov. 1, 2001). Although Capano is an unpublished decision and, therefore, not precedential, it does provide guidance on whether membership in a voluntary organization constitutes a property interest.

plaintiff, Versarge, had a property interest in benefits received through his membership in a fire company. 984 F.3d 1359 (3d Cir. 1993). Versarge acknowledged that he did not receive monetary compensation for his services, but "claimed that his volunteer position afforded him: (1) training; (2) workers' compensation; and (3) access to the firehouse as a social area." Id. at 1370. Although plaintiff in this case does not explicitly state the property interest he had in his membership with the Fire Company, he does claim that he received training and workers compensation. (D.I. 45 at 7, 9) The Versarge court stated:

> We find little merit in plaintiff's reliance on training and workers' compensation as benefits. The utility and value of each of these supposed benefits is inextricably tied to the position from which plaintiff was expelled. Thus, there is no benefit from workers' compensation unless one is injured while working as a volunteer firefighter. Similarly, there is no benefit from training as a firefighter unless one is working as a volunteer firefighter. We also find little merit in plaintiff's reliance on the use of a firehouse as a social area.

984 F.3d at 1370. According to the court, "[t]he Supreme Court has stated that the requirements of due process do not apply when the property interest involved is 'de minimis.'" Id. (citing Goss v. Lopez, 419 U.S. 565, 576 (1975)). The Versarge court concluded that the benefits received by plaintiff were de minimis and, therefore, he was not entitled to the constitutional requirements of due process. Id. Since plaintiff has not identified any property interests other than those presented in

Versarge,[8] this court concludes that plaintiff only had a de minimis property interest in his voluntary membership and he is not entitled to the constitutional requirements of due process.

Furthermore, plaintiff did not present evidence that a procedural violation occurred. According to the Fire Company's Bylaws, any member may be expelled by an affirmative vote of a majority of members present at any meeting provided: (1) the member is notified by certified letter of the meeting; (2) the notice is at least thirty days prior to the meeting; (3) the letter states the charges against the member; and (4) the letter advises the member to be present and offer any defense they so desire. (D.I. 43, ex. B)

According to plaintiff, on February 12, 2002 personnel of the Fire Company informed him that charges were brought against

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[8] Plaintiff relies on Hawkins v. Board of Public Education, 468 F. Supp. 201 (D. Del. 1979), to support his argument that he had a property interest in his voluntary membership in the Fire Company. (D.I. 45 at 13) Plaintiff Hawkins was employed by defendant Board of Public Education as a "Fireman Custodian" in a middle school in Wilmington. 468 F. Supp. at 203-04. As Fireman Custodian, Hawkins was responsible for maintaining the heating and air conditioning in the school. Id. at 204. When plaintiff was terminated from his position, he sued alleging violation of due process. Id. The court concluded that Hawkins has a property interest in continued employment. Id. at 215. Hawkins is distinguishable from the present matter, however, in that Hawkins was employed by the Board of Public Education. Employment carries with it tangible benefits (e.g., wages, benefits, etc.) which exceed the de minimis benefits of membership in a voluntary association. Plaintiff was not employed by defendants. Consequently, Hawkins does not support plaintiff's argument.

him and that he was being placed on suspension until a full investigation was completed. (D.I. 45 at 14) Defendants claim that at the Board of Directors meeting held on March 4, 2002, the statement of charges against plaintiff was hand-delivered to plaintiff and his legal counsel. (D.I. 42 at 32; D.I. 43 at A-3) Plaintiff never denies that the statement of charges was hand-delivered to plaintiff at this meeting.[9]

The next communication plaintiff mentions in his complaint and his opposition is a March 7, 2002 certified letter from the Fire Company informing plaintiff that the Board of Directors voted unanimously to recommend plaintiff's expulsion from the Fire Company. (D.I. 45 at 14; D.I. 46, ex. D) The March 7th certified letter also indicated that on April 8, 2002, thirty-one days after the notice, the general membership would vote on whether to expel plaintiff, and advised plaintiff that he should be present and provide any defenses he so desired. Thus, the March 7th letter: (1) was a certified letter notifying plaintiff of the meeting; (2) gave notice 30 days prior to the meeting; (3)

[9] The evidence of record also demonstrates that plaintiff was notified of the charges on March 4, 2002. For instance, the March 7, 2002 letter refers to "information provided in regards to the charges." (D.I. 46, ex. D) The April 11, 2002 letter informs plaintiff of the Board of Directors' recommendation for expulsion, based upon "the charges present to you on March 4, 2002." (D.I. 46, ex. E) Finally, by affidavit, Scott W. Dunkelberger, chair of the Board of Directors, has averred that the statement of charges against plaintiff was delivered to him at the March 4, 2002 meeting. (D.I. 43 at A-3) Plaintiff has submitted no evidence contrary to the above.

referred to the charges; and (4) advised plaintiff to be present at the meeting and offer any defense. Plaintiff was provided all the process due.

2. Equal Protection

"To prevail on an equal protection claim, a plaintiff must present evidence that s/he has been treated differently from persons who are similarly situated." See Williams v. Morton, 343 F.3d 212, 221 (3d Cir. 2003). In the present case, plaintiff does not present any evidence that he has been treated any differently from persons similarly situated. Furthermore, plaintiff has not even identified a similarly situated group of people who were treated differently. Accordingly, the court finds that plaintiff fails to meet his burden with regard to his equal protection claim. The court grants defendants' motion for summary judgment as to plaintiff's equal protection claim.

C. Plaintiff's State Law Claims

Plaintiff's remaining claims are grounded in state law. According to 28 U.S.C. § 1367(a),

> [i]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

As a result, this court is permitted to exercise supplemental jurisdiction over plaintiff's state law claims. However, 28

U.S.C. § 1367(c) states:

> The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if –
> (1) the claim raises a novel or complex issue of State law,
> (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
> (3) the district court has dismissed all claims over which it has original jurisdiction, or
> (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

Since this court has granted defendants' motion for summary judgment on all claims over which it had original jurisdiction, it declines to exercise supplemental jurisdiction over plaintiff's state law claims.

V. CONCLUSION

For the reasons set forth above, the court grants defendants' motion for summary judgment in its entirety. An appropriate order shall issue.