

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RAFAEL RODRIGUEZ-MATA,

Plaintiff,

v.

Case No. 2:16-cv-02335-JTM

SEABOARD FOODS LLC, and
SEABOARD FARMS, INC.,

Defendants.

MEMORANDUM AND ORDER

This matter is before the court on defendant Seaboard Farms, Inc.'s Motion to Dismiss (Dkt. 9). The motion alleges that plaintiff has not exhausted administrative remedies with respect to his discrimination claims against defendant Seaboard Farms, Inc. The motion thus argues that plaintiff's claims against this defendant under the Americans with Disabilities Act (ADA) and Title VII must be dismissed. *See MacKenzie v. City and County of Denver*, 414 F.3d 1266, 1274 (10th Cir. 2005) (a plaintiff must exhaust her claims before the EEOC as a prerequisite to federal court jurisdiction over her ADA claims); *Eisenhour v. Weber County*, 744 F.3d 1220, 1226 (10th Cir. 2014) (federal courts lack jurisdiction over Title VII claims that were not previously raised in an EEOC complaint).

In response to the motion, defense counsel has notified the court by email that after further inquiry, plaintiff has "concluded that the appropriate defendant is Seaboard Foods LLC." As a result, counsel's email reports, "plaintiff will not be filing

an answer to Seaboard Farms, Inc[.'s] motion to dismiss." The court accordingly concludes that the motion to dismiss is uncontested and should be granted. D. Kan. R.

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IT IS THEREFORE ORDERED this 31st day of October, 2016, that the motion to dismiss of defendant Seaboard Farms, Inc. (Dkt. 9) is GRANTED. The claims against defendant Seaboard Farms, Inc. are dismissed without prejudice.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE