**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF KANSAS**

**MITCHELL DORFMAN, *derivatively and on behalf of* MGP INGREDIENTS, INC.,**

**Plaintiff,**

**v.**

**AUGUSTUS C. GRIFFIN, et al.,**

**Defendants,**

**and**

**MGP INGREDIENTS, INC.,**

**Nominal Defendant.**

**Case No. 20-2239-DDC-JPO**

**MEMORANDUM AND ORDER**

This matter comes before the court on the parties' Joint Motion to Dismiss (Doc. 34). On March 31, 2021, the court entered an Order (Doc. 30) granting defendants' Motion to Dismiss in part and denying the motion in part. Specifically, the court granted the Motion to Dismiss plaintiff's federal claims without prejudice. Doc. 30 at 47–49. But, the court denied the motion as it applied to plaintiff's state law claims. And, the court stayed the case pending the Kansas Supreme Court's review of *Herington v. City of Wichita*, 479 P.3d 482 (Kan. Ct. App. 2020).

On December 17, 2021, the Kansas Supreme Court issued a decision in *Herington*. *See Herington v. City of Wichita*, __ P.3d __, 2021 WL 5990322 (Kan. Dec. 17, 2021). It held that when "a federal court declines to exercise supplemental jurisdiction over state law claims and dismisses those claims without prejudice," that dismissal is not a "final judgment on those state

law claims" and "the Kansas common law doctrine of res judicata does not preclude a litigant from bringing those claims in state court." *Id.* at *10.

Consistent with the Kansas Supreme Court's decision in *Herington*, the parties agree: the court should dismiss plaintiff's "remaining, state claims, without prejudice to their refiling in state court, and with each party to bear its own costs." Doc. 34 at 2. The court grants the parties' request. Thus, the court dismisses plaintiff's state law claims without prejudice. And, the court directs the Clerk of the Court to enter Judgment consistent with this Order and the court's March 31, 2021 Order (Doc. 30). That is, the court directs the Clerk of the Court to enter Judgment (1) dismissing plaintiff's federal claims **without prejudice** consistent with the court's March 31, 2021 Order (Doc. 30), and (2) dismissing plaintiff's state law claims **without prejudice** because the court declines to exercise supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

**IT IS THEREFORE ORDERED BY THE COURT THAT** the parties' Joint Motion to Dismiss (Doc. 34) is granted. The court dismisses plaintiff's state law claims without prejudice.

**IT IS SO ORDERED.**

**Dated this 11th day of January, 2022, at Kansas City, Kansas.**

**s/ Daniel D. Crabtree**
**Daniel D. Crabtree**
**United States District Judge**