UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LEE RAYNOR, Plaintiff, v. NATIONAL BEEF PACKING PLANT, Defendant.	Case No. 26-1235-JWB-BGS

REPORT AND RECOMMENDATION FOR DISMISSAL

Plaintiff Lee Raynor filed this action pro se and has been granted leave to proceed in forma pauperis. After screening the original Complaint, the Court entered an Order to Show Cause identifying its deficiencies and gave Plaintiff an opportunity to file a complete amended complaint. *See* Doc. 5. Plaintiff timely filed an amended complaint and a 13-page attachment.[1] Docs. 6, 6-1.

Even when those documents are read together and construed liberally, the amended complaint does not state a viable federal claim. The statutes Plaintiff invokes do not authorize the immigration and enforcement claims he seeks to pursue, and his allegations do not connect National Beef's private employment decisions to governmental action. The additional facts also do not plausibly connect his alleged discipline to a characteristic protected by Title VII or 42 U.S.C. § 1981. The undersigned therefore recommends dismissal of the federal claims and dismissal without prejudice of the remaining Kansas claims.

I. Governing Standard

When a plaintiff proceeds in forma pauperis, the Court must dismiss the case at any time if it determines that the action is frivolous or malicious, fails to state a claim on which relief may be

[1] For ease of reference, both the amended complaint and the attached exhibit will be referred to collectively as the "amended complaint."

granted, or seeks monetary relief from an immune defendant. 28 U.S.C. § 1915(e)(2)(B). The failure to state a claim standard is the same one that governs a motion under Federal Rule of Civil Procedure 12(b)(6). *Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007). The Court accepts well-pleaded facts as true and draws reasonable inferences in Plaintiff's favor, but the complaint must contain enough factual matter to state a plausible claim. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007).

Because Plaintiff proceeds pro se, the Court construes his filings liberally and holds them to a less stringent standard than formal pleadings drafted by lawyers. *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). But liberal construction does not permit the Court to assume the role of advocate or supply facts needed to support a claim. *Id.* Rule 8 still requires a short and plain statement showing entitlement to relief. Fed. R. Civ. P. 8(a)(2). A pro se litigant may satisfy that requirement by explaining what each defendant did, when the defendant did it, how the conduct harmed the plaintiff, and what specific legal right was violated. *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007).

The Court also has an independent obligation to confirm subject-matter jurisdiction. If jurisdiction is lacking, the Court must dismiss the claim. Fed. R. Civ. P. 12(h)(3). A dismissal for lack of jurisdiction must be without prejudice because the Court cannot reach the merits. *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1216, 1218 (10th Cir. 2006). Finally, dismissal without another opportunity to amend is appropriate when it is obvious that the plaintiff cannot prevail on the facts alleged and further amendment would be futile. *Kay*, 500 F.3d at 1217.

II. Procedural and Factual Background

Plaintiff initiated this action on August 3, 2026. The original Complaint combined two civil-complaint forms, a separately drafted pleading, and a 77-page exhibit. Docs. 1, 1-1. Construed as a whole, that filing attempted to assert employment-discrimination and retaliation claims under Title

VII and the Americans with Disabilities Act; claims under 42 U.S.C. § 1981, § 301 of the Labor Management Relations Act, and the Occupational Safety and Health Act; federal immigration, criminal, and Kansas tort claims. *See* Doc. 5 at 3–4.

On August 5, 2026, the Court granted Plaintiff's motion to proceed without prepayment of fees and directed the Clerk to withhold service during screening. Doc. 4. The same day, the Court entered an Order to Show Cause explaining why the original Complaint did not comply with Rule 8 or state a viable federal claim. Doc. 5. Rather than recommend immediate dismissal, the Court gave Plaintiff until September 4, 2026, either to file one complete amended complaint curing the identified deficiencies or to show cause why the action should not be dismissed. *Id.* at 10–11. The Court instructed that any amended complaint must include every claim and supporting factual allegation Plaintiff intends to pursue, must stand on its own, and will supersede the original Complaint. *Id.* at 10. It also warned that an inadequate response could result in a recommendation of dismissal without further notice. *Id.*

Plaintiff responded on September 3, 2026, by filing an amended complaint and a 13-page attachment. Docs. 6, 6-1. The amended complaint names National Beef Packing Plant as the only Defendant. It references federal question and supplemental jurisdiction, but its statement of claims section identifies only assault, intentional infliction of emotional distress, retaliatory discharge, and other unspecified Kansas claims. Doc. 6 at 1–4. Plaintiff seeks damages, including backpay, front pay, and lost benefits. *Id.* at 4.

The attachment is captioned "Order to Show Cause on All Counts." Doc. 6-1 at 1. It repeats the workplace allegations from the original complaint. Plaintiff alleges that, on October 14, 2025, coworker Kaden Hegvendt struck him with a sharpening steel and that Plaintiff pushed Hegvendt away. Management then escorted Plaintiff to an office, where he prepared a statement at the direction of Alex Soto, whom Plaintiff describes as a union representative. Manager George

Hall suspended Plaintiff and terminated him the following Monday, stating that there was no video evidence of the incident. About two weeks later, Soto told Plaintiff that he had lost his grievance, while Hegvendt was permitted to return to work. *Id.* at 2.

Plaintiff further alleges that, before the altercation, he repeatedly told National Beef management that Hegvendt and his associates lacked authorization to work in the United States. He believes National Beef terminated him in retaliation for those reports and disciplined him more harshly than Hegvendt. *Id.* at 2–5. Plaintiff also alleges that federal personnel knew of unlawful hiring at National Beef but did not take enforcement action, and he characterizes that inaction as unconstitutional selective enforcement. *Id.* at 3.

Plaintiff identifies Hegvendt as an undocumented immigrant from Guatemala. He also alleges that management verbally reprimanded him on April 1, 2025, after a "born in the USA" joke. On the same day, Hall asked whether Plaintiff knew about Edna Castro, whose husband, Plaintiff says, had been deported three times. The attachment does not describe the joke or the substance of the reprimand. Doc. 6-1 at 2–3.

Because the attachment contains factual allegations, legal argument, and proposed counts, the Court identifies Plaintiff's claims and theories from the substance of both the amended complaint and the attached exhibit. Read together and construed liberally, the amended complaint advances the following claims and theories:

- Claims under 8 U.S.C. § 1324a and its implementing regulations (8 C.F.R. pt. 274a (2026)), based on National Beef's alleged employment of unauthorized workers and its termination of Plaintiff after he reported that conduct;

- Retaliation claim under 8 U.S.C. § 1324b, which Plaintiff does not cite but which the Court considers because it contains the relevant immigration and retaliation provisions;

- Fraud claim under 18 U.S.C. § 1546;

- Due-process and equal-protection claims based on National Beef's allegedly unequal discipline;

- Claims under 5 U.S.C. § 3331 and the Constitution because federal personnel allegedly declined to enforce federal immigration law;

- Kansas claims for assault, intentional infliction of emotional distress, retaliatory discharge, and negligent hiring or retention;

- Claims of citizenship-based discriminatory discipline under § 1981 and national-origin discrimination under Title VII, based on allegations concerning Plaintiff's citizenship, Hegvendt's national origin and immigration status, and their different discipline, as well as retaliation under both statutes for Plaintiff's reports to management.

III. Analysis

The Court first identifies the operative pleading and the claims discernible from it. It then addresses Plaintiff's federal statutory and constitutional claims, including the employment-discrimination claims suggested by the amended facts. Finally, the Court considers jurisdiction over the Kansas claims and whether further amendment is appropriate.

A. The Operative Pleading

An amended complaint supersedes the original complaint and renders the original without legal effect. *Predator Int'l, Inc. v. Gamo Outdoor USA, Inc.*, 793 F.3d 1177, 1180–81 (10th Cir. 2015). The Court warned Plaintiff of that consequence. Doc. 5 at 10. The Court therefore evaluates the amended complaint without incorporating allegations from the original Complaint. But failure to repeat a statutory citation does not, by itself, foreclose a claim supported by the amended facts. *See Johnson v. City of Shelby*, 574 U.S. 10, 11–12 (2014).

The amended complaint lists claims, while the attachment supplies repetitive factual assertions, legal argument, and additional theories. Because Plaintiff filed both documents together and proceeds pro se, the undersigned considers them together and will not recommend dismissal for

failing to comply with Rule 8. That construction, however, does not relieve Plaintiff of the obligation to state a recognized claim.

The amended complaint and the accompanying exhibit contain no allegations of disability discrimination, failure to accommodate, or breach of a collective-bargaining agreement. Plaintiff's references to workplace safety and his unsuccessful grievance do not supply those missing allegations. The Court therefore does not construe the amended complaint as reasserting claims under the ADA or § 301 of the Labor Management Relations Act.

B. Federal Statutory Claims

1. Sections 1324a and 1324b

Plaintiff invokes § 1324a and its implementing regulations (8 C.F.R. pt. 274a), alleging that National Beef employed unauthorized workers and terminated him after he reported that conduct. Because Plaintiff frames his termination as immigration-related retaliation, the Court also considers whether § 1324b could support that theory. Doc. 6-1 at 2–5. Section 1324a prohibits knowingly hiring or continuing to employ an unauthorized alien and assigns enforcement to federal officials through an administrative process. 8 U.S.C. § 1324a(a), (e). Private rights of action to enforce federal law must be created by Congress. *Alexander v. Sandoval*, 532 U.S. 275, 286 (2001). Section 1324a creates neither a private civil remedy nor an employee-retaliation claim. *See Arres v. IMI Cornelius Remcor, Inc.*, 333 F.3d 812, 814–15 (7th Cir. 2003) (explaining that Congress included an antiretaliation provision in § 1324b but omitted one from § 1324a). *Cf. Chavez v. Freshpict Foods, Inc.*, 456 F.2d 890, 893–94 (10th Cir. 1972) (declining to imply private civil enforcement under federal immigration provisions that expressed no congressional intent to create one). And the implementing regulations cannot create a private remedy that Congress omitted from the statute. *Sandoval*, 532 U.S. at 291. Plaintiff therefore cannot use § 1324a or 8 C.F.R. pt. 274a to sue National

Beef for allegedly employing unauthorized workers or for terminating him after he reported that conduct.

Generously construing the allegations instead under § 1324b does not save the claim. Section 1324b prohibits discrimination based on national origin or citizenship status and protects a person from retaliation for exercising a right secured by that section or participating in a charge, investigation, or proceeding under it. 8 U.S.C. § 1324b(a)(1), (5). A report that an employer violated § 1324a by hiring unauthorized workers, standing alone, is not activity protected by § 1324b(a)(5). *Arres*, 333 F.3d at 814–15 (explaining that § 1324b(a)(5) protects activity concerning rights secured by § 1324b, not efforts directed solely at preventing § 1324a violations).

More fundamentally, § 1324b does not authorize an original, non-enforcement action in federal district court. A person asserting an unfair immigration-related employment practice must begin with the statute's administrative process. Judicial review of a final administrative order lies in the appropriate court of appeals. Section 1324b(j) authorizes a district court to enforce an administrative order, but the statute does not authorize an original, nonenforcement action like this one. *Ravines de Schur v. Easter Seals Goodwill N. Rocky Mountain, Inc.*, No. 22-4055, 2023 WL 4635890, at *3–4 (10th Cir. July 20, 2023). The absence of a private cause of action for such a suit presents a "merits concern," not a jurisdictional defect. *Id.* at *4. Thus, even if Plaintiff intended a § 1324b claim, he cannot pursue that claim in this action.

2. Section 1546 and Section 3331

Plaintiff labels one theory "Document Fraud" and invokes 18 U.S.C. § 1546 based on what he characterizes as fraud or misuse involving immigration documents. He also invokes 5 U.S.C. § 3331 based on federal personnel's alleged failure to act on perceived immigration law violations at National Beef. Doc. 6-1 at 5–7, 12. Section 1546 criminalizes fraud and misuse involving visas, permits, and other immigration documents, but it creates no private civil remedy. 18 U.S.C. § 1546.

See Andrews v. Heaton, 483 F.3d 1070, 1076 (10th Cir. 2007) (affirming dismissal of civil claims invoking federal criminal statutes that created no private right of action). Section 3331 prescribes an oath for persons elected or appointed to certain federal offices. 5 U.S.C. § 3331. It contains no remedial provision, imposes no duty on National Beef, and cannot support a private claim against the only Defendant in this action.

3. Title VII and Section 1981

The amended complaint also warrants consideration under the employment discrimination statutes addressed in the show cause order. Plaintiff alleges Kansas citizenship, identifies Hegvendt as an undocumented immigrant from Guatemala, and maintains that National Beef imposed different discipline after the same workplace incident. Doc. 6 at 2; Doc. 6-1 at 2–3. Although Plaintiff no longer cites Title VII or § 1981, the Court considers whether those allegations, including the April reprimand, state a discrimination or retaliation claim under either statute.

a. National-Origin Discrimination under Title VII

Title VII prohibits employment discrimination because of race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-2(a)(1). For purposes of this recommendation, the Court liberally construes Plaintiff's allegations concerning Hegvendt's Guatemalan origin, the employees' different discipline, and the reprimand following the "born in the USA" joke as an attempt to assert national origin discrimination. *See* Doc. 6-1 at 2–3. National origin encompasses the country of a person's birth and, more broadly, the country from which the person's ancestors came. *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88–89 (1973). A prima facie case of disparate treatment requires (1) membership in a protected class, (2) an adverse employment action, and (3) circumstances giving rise to an inference of discrimination. *EEOC v. PVNF, L.L.C.*, 487 F.3d 790, 800 (10th Cir. 2007). Plaintiff need not plead facts establishing every element of a prima facie case. His allegations must nevertheless, when accepted as true and considered together, support a reasonable inference that

National Beef subjected him to an adverse employment action because of his national origin. *See Khalik v. United Air Lines*, 671 F.3d 1188, 1192 (10th Cir. 2012). Citizenship and national origin are distinct. *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88–89, 92–95 (1973).

Plaintiff identifies Hegvendt's Guatemalan origin but does not identify his own national origin or allege facts connecting national origin to the disciplinary decision. However, even assuming the United States is his country of origin, his statement that management reprimanded him after a "born in the USA" joke does not describe the joke, identify it as a statement about his own origin, or explain the substance of the reprimand. He adds that Hall asked on the same day whether he knew about Edna Castro and describes her husband's deportations, but he does not connect that inquiry to his own national origin or how that constitutes discriminatory conduct. The Court accepts that these events occurred, but the allegations do not plausibly show that National Beef disciplined Plaintiff because of his national origin. Nor does the difference in the employees' perceived immigration status, considered with the other allegations, supply that missing connection. The amended complaint therefore does not state a Title VII discrimination claim.

b. Citizenship Discrimination under § 1981

The § 1981 inquiry requires separate consideration because Plaintiff now alleges citizenship and describes a particular coworker who received more favorable discipline. For purposes of this recommendation, the Court assumes without deciding that § 1981 permits a United States citizen to challenge an employer's preferential treatment of noncitizens.[2] Even on that assumption, Plaintiff

[2] The Court considers this theory because Plaintiff alleges citizenship and more favorable discipline for a coworker whom he describes as a noncitizen, and the courts of appeals disagree about whether § 1981 permits such a claim. *Compare Rajaram v. Meta Platforms, Inc.*, 105 F.4th 1179, 1186–87 (9th Cir. 2024) (holding that § 1981 prohibits hiring discrimination against United States citizens because of their citizenship), *with Chaiffetz v. Robertson Rsch. Holding, Ltd.*, 798 F.2d 731, 735 (5th Cir. 1986) (rejecting an American employee's citizenship-discrimination claim under § 1981). The Court has not identified a Tenth Circuit decision resolving this question. The undersigned expresses no view on which interpretation should govern here. The recommendation rests on the insufficiency of Plaintiff's allegations even if such a claim is available.

must plausibly allege intentional discrimination for which citizenship was a but-for cause of his injury. *Cf. Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media*, 589 U.S. 327, 341 (2020) (requiring a plaintiff asserting racial discrimination under § 1981 to plead, and ultimately prove, that race was a but-for cause of the injury).

Different discipline for employees involved in the same incident can support an inference of discrimination. *See McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 282–84 (1976) (rejecting dismissal of a claim alleging race-based discipline where white employees were discharged while a Black employee implicated in the same misconduct was retained). The Court therefore accepts and considers Plaintiff's allegations that Hegvendt initiated the assault, Plaintiff pushed him away in response, Hall suspended and terminated Plaintiff, and Hegvendt returned to work. Doc. 6-1 at 2, 7–8. Those allegations identify a disparity; the remaining question is whether the amended complaint plausibly connects that disparity to Plaintiff's citizenship.

Read as a whole, the amended complaint does not supply that connection. Plaintiff repeatedly identifies his reports about unauthorized employment as the reason National Beef retaliated against him. He identifies Hegvendt's immigration status as the subject of those reports and argues that retaining Hegvendt rendered the disciplinary process unfair. That account may support an inference of unfair discipline or retaliation for reporting suspected immigration violations, but it does not supply a factual basis for inferring that Plaintiff's citizenship itself caused the different treatment. The April reprimand and Hall's inquiry about Edna Castro do not bridge the gap: Plaintiff supplies no allegation connecting either event to his citizenship or indicating that management used citizenship to distinguish between the employees. The Court does not require a discriminatory statement, an express policy, or any particular form of proof. It considers the allegations collectively and concludes that they do not plausibly identify citizenship as a but-for cause of Plaintiff's termination.

c. Retaliation under Title VII and § 1981

The Court also considers whether Plaintiff's reports to management support a Title VII retaliation claim. A prima facie retaliation case requires a plaintiff to show that (1) he engaged in a protected activity, (2) a reasonable employee would have found the action materially adverse, and (3) there is a causal connection between the two. *See Khalik*, 671 F.3d at 1192–93. Ultimately, retaliation must have been a but-for cause of the challenged action. *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 362 (2013). Title VII protects opposition to practices prohibited by that statute, and the employer must understand that the employee is opposing such discrimination. *Petersen v. Utah Dep't of Corr.*, 301 F.3d 1182, 1188 (10th Cir. 2002). Section 1981 likewise protects efforts to vindicate the contractual rights it secures. *See CBOCS W., Inc. v. Humphries*, 553 U.S. 442, 445, 452 (2008) (recognizing retaliation protection for complaints about violations of § 1981 rights).

Here, Plaintiff's alleged suspension and termination may qualify as materially adverse actions. But the amended complaint does not plausibly connect those actions to an activity protected by Title VII or § 1981. Plaintiff describes reporting that National Beef employed unauthorized workers and tolerated unsafe conduct. He characterizes those reports as efforts to secure compliance with immigration-employment laws and workplace-safety requirements. *See* Doc. 6-1 at 2–5. He does not allege that the reports challenged discriminatory treatment because of race, national origin, or citizenship, whether directed at him or another employee. Nor does he describe circumstances suggesting that management understood the reports as opposition to such discrimination. Although an employee's opposition may be protected even if the challenged practice ultimately proves lawful, the employee must hold a reasonable, good-faith belief that the practice constitutes prohibited discrimination. *Fassbender v. Correct Care Sols., LLC*, 890 F.3d 875, 890 (10th Cir. 2018). The employer also must understand the nature of that opposition. *See Petersen*, 301 F.3d at 1188.

Plaintiff's asserted belief that National Beef violated immigration-employment or safety laws does not supply that connection.

Plaintiff attributes his termination to those reports. He also alleges that Hegvendt received more favorable discipline and that National Beef's stated reason for terminating Plaintiff was pretextual. *See* Doc. 6-1 at 2, 4. Those allegations bear on why National Beef acted, but they do not show that Plaintiff's reports opposed national origin discrimination prohibited by Title VII or discrimination infringing on rights protected by § 1981. Even assuming that National Beef would not have suspended or terminated Plaintiff but for his reports, retaliation for the reports described in the amended complaint would not satisfy the protected-activity requirement of either claim. *See CBOCS W.*, 553 U.S. at 445 (recognizing § 1981 retaliation protection for complaints about violations of contract-related rights protected by that statute); *Petersen*, 301 F.3d at 1188 (explaining that opposition to rude or unfair treatment does not constitute protected opposition unless it concerns discrimination prohibited by Title VII). The undersigned therefore recommends dismissal without prejudice of the construed Title VII and § 1981 retaliation claims for failure to state a claim.

C. Constitutional Claims

1. National Beef's Employment Decisions

Plaintiff invokes the Fifth and Fourteenth Amendments and the Equal Protection Clause to challenge National Beef's disciplinary decision. He alleges that National Beef acted irrationally and unfairly by terminating him while retaining co-worker Hegvendt and characterizes that disparate discipline as unconstitutional. Doc. 6-1 at 5–6, 8. The Fourteenth Amendment regulates governmental conduct, not purely private conduct. *Wasatch Equality v. Alta Ski Lifts Co.*, 820 F.3d 381, 386 (10th Cir. 2016). The Fifth Amendment's equal-protection component similarly constrains the federal government. *Id.* at 386 n.3. National Beef is a private employer, and Plaintiff alleges no facts plausibly attributing its disciplinary decisions to a state or the federal government. His

allegation that federal officials knew of unlawful conduct but failed to intervene describes acquiescence, not governmental control of National Beef's decision. Governmental knowledge, approval, or acquiescence is insufficient to transform private conduct into governmental action. *Id.* at 389–90. National Beef's allegedly unequal or irrational discipline therefore does not give rise to a constitutional due-process or equal-protection claim.

2. Federal Nonenforcement of Immigration Laws

To the extent Plaintiff seeks to challenge the federal government's alleged refusal to enforce immigration law against National Beef or its employees, he lacks standing to do so. A litigant ordinarily has no judicially cognizable interest in the Executive Branch's decision whether to arrest or prosecute another person, including whether to enforce federal immigration laws. *United States v. Texas*, 599 U.S. 670, 677–80 (2023). The Supreme Court distinguished selective-prosecution claims, in which a party typically seeks to prevent his own prosecution rather than compel additional prosecutions of others. *Id.* at 681. Plaintiff does not allege that federal officials prosecuted or threatened to prosecute him. His employment loss is attributed to National Beef, no federal officer or agency is named as a defendant, and an order directed to National Beef could not compel federal enforcement. Plaintiff therefore lacks Article III standing to pursue this theory.

3. Other Constitutional References

Plaintiff also invokes Article III, the Supremacy Clause, the Seventh Amendment, and several Federal Rules of Evidence. Because it is unclear whether he intends to assert those authorities as independent causes of action or only as support for his other claims, the Court considers whether any provides a cognizable claim. The Supremacy Clause establishes federal law's priority when federal and state law conflict, but it creates neither federal rights nor a private cause of action. *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 324–25 (2015). In any event, Plaintiff identifies no conflicting state law. Article III defines the federal judicial power, and 28 U.S.C. § 1331

confers federal-question jurisdiction; neither creates a substantive right or an independent cause of action. The Seventh Amendment preserves the right to a jury trial in qualifying civil actions; it does not create an independent cause of action against National Beef. Lastly, Federal Rules of Evidence 401, 402, 602, and 701 govern the admissibility of evidence in a federal proceeding. None provides an independent cause of action against National Beef or otherwise cures the deficiencies identified above.

D. Kansas Claims and Subject-Matter Jurisdiction

1. No Independent Original Jurisdiction

The amended complaint identifies assault, intentional infliction of emotional distress, and retaliatory discharge under Kansas law; the attachment adds negligent hiring or retention. 28 U.S.C. § 1367 does not independently confer original jurisdiction over those claims. It instead grants supplemental jurisdiction over claims sufficiently related to claims within the Court's original jurisdiction. *See* 28 U.S.C. § 1367(a).

First, the amended complaint does not establish diversity jurisdiction. Plaintiff alleges that he is a Kansas citizen and that Defendant is also a Kansas citizen or, alternatively, a corporation incorporated under Kansas law. Doc. 6 at 2. Those allegations defeat rather than establish complete diversity. *See* 28 U.S.C. § 1332(a)(1), (c)(1). To the extent Plaintiff intended to sue a limited-liability company, he also does not identify its members or allege their citizenship.[3] An LLC takes the citizenship of each of its members. *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1238 (10th Cir. 2015).

[3] The original Complaint identified Defendant as "National Beef Packing Company, LLC" (Doc. 1 at 12), and the IFP affidavit likewise listed "National Beef Packing Co., LLC" (Doc. 3-1 at 2). The amended complaint, however, identifies Defendant only as "National Beef Packing Plant" and treats it as either a Kansas citizen or Kansas corporation. Doc. 6 at 1–2.

Second, the references to federal immigration law do not convert the Kansas claims into federal claims. A state-law claim falls within this narrow category only if it necessarily raises a federal issue that is actually disputed, substantial to the federal system as a whole, and capable of resolution in federal court without disrupting the federal-state balance approved by Congress. *Gunn v. Minton*, 568 U.S. 251, 258, 260 (2013); *Ortiz v. A.C.I. Motor Freight, Inc.*, No. 14-2427-JAR-JPO, 2014 WL 5800130, at *2 (D. Kan. Nov. 7, 2014).

Even assuming Plaintiff's Kansas claims necessarily raise a disputed immigration-law issue, resolving that issue would depend on the particular facts concerning National Beef and the employees Plaintiff identifies. It would not resolve a question important to the federal system as a whole. Exercising federal jurisdiction whenever a Kansas tort claim refers to an alleged federal violation also would disrupt the traditional federal-state division of responsibility for state tort law. *See Ortiz*, 2014 WL 5800130, at *3–4 (holding that a Kansas retaliatory-discharge claim referencing federal safety regulations did not present a substantial federal question). The Kansas claims therefore do not independently arise under federal law.

2. Supplemental Jurisdiction

Because the undersigned recommends dismissal of every federal claim from the amended complaint, the Court may decline supplemental jurisdiction over the remaining Kansas claims. 28 U.S.C. § 1367(c)(3). When federal claims are dismissed before trial, the Court ordinarily should decline jurisdiction over related state claims. *Smith v. City of Enid ex rel. Enid City Comm'n*, 149 F.3d 1151, 1156 (10th Cir. 1998). This action remains at the screening stage, Defendant has not been served, and no discovery or other substantive proceedings have occurred. Judicial economy, convenience, fairness, and comity favor allowing a Kansas court to address the Kansas claims. The undersigned therefore recommends declining supplemental jurisdiction and dismissing those claims without prejudice.

E. Further Amendment

Plaintiff has already received an explanation of the original pleading's deficiencies and an opportunity to amend. *See* Doc. 5. As explained above, additional factual allegations cannot create a private cause of action under 8 U.S.C. § 1324a, 18 U.S.C. § 1546, or 5 U.S.C. § 3331 or authorize an original, nonenforcement § 1324b action in federal district court. The amended complaint suggests no additional facts that could plausibly attribute National Beef's employment decisions to governmental action. Nothing in the amended complaint suggests a basis for curing the standing defect in Plaintiff's challenge to federal nonenforcement against third parties. Further amendment of those theories would therefore be futile. *See Brereton*, 434 F.3d at 1219 (explaining that dismissal with prejudice is appropriate when a complaint fails to state a claim and amendment would be futile); *Ravines de Schur*, 2023 WL 4635890, at *4–5 (directing dismissal with prejudice when amendment could not create an original § 1324b action in district court).

The construed discrimination claims fail for different reasons. The show-cause order specifically directed Plaintiff to identify the protected ground and facts connecting that ground to the adverse action, including intentional, but-for discrimination for a § 1981 claim. Doc. 5 at 7, 10. Plaintiff supplied additional details about the incident and the employees' different discipline, but his amended account still does not plausibly connect that difference to his citizenship or national origin. Instead, he repeatedly identifies immigration reporting as the basis for the alleged retaliation. The Court has considered the new facts, including the April reprimand, and does not rest its recommendation on the omission of statutory citations or the bare fact that Plaintiff has already amended once.

Repeated failure to cure identified deficiencies through amendments previously allowed can justify denying further leave. *Foman v. Davis*, 371 U.S. 178, 182 (1962). But a prior opportunity to amend does not dispense with consideration of whether additional allegations could cure a pro se

complaint. *See Shores v. Williams*, No. 24-1345, 2026 WL 1164551, at *7 (10th Cir. Apr. 29, 2026) (requiring consideration of additional facts offered in objections after the plaintiff had already amended). Plaintiff's response supplies no further factual basis suggesting that another amendment would cure the causation defect identified in the show-cause order. The undersigned therefore recommends dismissal without prejudice of the construed discrimination claims.

IV. Recommendation

For the reasons stated above, the undersigned recommends that the District Judge dismiss with prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii) Plaintiff's purported federal claims against National Beef based on 8 U.S.C. § 1324a and its implementing regulations, 18 U.S.C. § 1546, 5 U.S.C. § 3331, the Fifth and Fourteenth Amendments, the Supremacy Clause, any purported standalone cause of action under Article III, the Seventh Amendment, and the Federal Rules of Evidence. The undersigned also recommends dismissal with prejudice of any § 1324b claim insofar as Plaintiff attempts to pursue an original, nonenforcement action in this Court.

The undersigned further recommends that, to the extent Plaintiff seeks to challenge or compel federal immigration enforcement against National Beef or third parties, the District Judge dismiss that claim without prejudice for lack of Article III standing.

The undersigned also recommends dismissal without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii) of the construed Title VII and § 1981 discrimination and retaliation claims for failure to state a claim.

Finally, the undersigned recommends that the District Judge decline to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c)(3) and dismiss Plaintiff's Kansas claims without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 72(b)(2), and D. Kan. Rule 72.1.4(b), Plaintiff may serve and file written objections to these proposed findings and

recommendations within fourteen days after service. Any objections must be both timely and specific. Failure to file timely, specific objections will bar appellate review of the proposed factual findings, legal conclusions, and recommended disposition. *See Moore v. United States*, 950 F.2d 656, 659–61 (10th Cir. 1991).

The Clerk is directed to mail a copy of this Report and Recommendation to Plaintiff by certified mail at his address of record.

IT IS SO RECOMMENDED.

/s/ Brooks Severson
Brooks G. Severson
United States Magistrate Judge