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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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Eddie Pratt,

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Plaintiff,

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) CV 12-1821-PHX-JAT

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)  
) **ORDER**

vs.

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Office of Civil Rights, Colorado Dept. of  
Education, and Gateway Comm. College,

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Defendants.

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Pending before the Court are various motions, which the Court will address below.

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**A. Motion to Dismiss**

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Gateway Community College (Gateway) seeks dismissal for two reasons: 1) the  
18 complaint fails to state a claim under Federal Rule of Civil Procedure 12(b)(6), and 2)  
19 Gateway is a non-jural entity. Doc. 12. Gateway Community College has argued that it is  
20 a governmental entity. Doc. 12. However, Plaintiff has argued that it is a legal corporation,  
21 not a governmental entity. Doc. 13 at 2. Neither party has presented evidence to support their  
22 factual argument. Because the Court cannot resolve this dispute without evidence (which the  
23 Court could consider in the context of a 12(b)(1) motion), the Court will deny the motion to  
24 dismiss on this basis.

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Gateway has also argued that the Complaint fails to state a claim. The Complaint  
26 (quoted in its entirety) alleges as follows:

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I the plaintiff Eddie L. Pratt ask for a plea for relief and justice;  
28 resulting from a perceived loss of integrity, humiliated [sic], stature, dignity,  
harassment, abridged human rights, and slavery. That is why we need Titles'

1 V, VI, VII of the Civil Rights Act, HR, 7152 to prevent [sic] where Federal  
2 Funds are involved. Title VI, and the Title VII is sound; it is [sic]  
3 constitutional right. Now, what will it accomplish? It will guarantee that the  
4 money collected by colorblind tax collectors will be distributed by Federal and  
5 State administrator [sic] who are equally colorblind, eliminate [sic]  
6 discrimination.

7 I file [sic] a complaint with both [sic] Office of Civil Rights - Attorney  
8 Thomas Rock and EEOC Rayford Irvin; “hostile environment” wrongful  
9 termination, and discrimination. They did not follow policy and procedure.  
10 [citation omitted]. The agencies didn’t investigate my case; which violated my  
11 civil rights [citation omitted]; unlawful basis; none [sic] white [sic] get less  
12 hours, less pay, while whites get more hours and more pay. In fact, they  
13 dismiss [sic] my case and never gave me an appeal, and also denied a waiver.  
14 [citation omitted].

15 Fourteenth Amendment to the U.S. Constitution declares that no state  
16 may not [sic] “deny” to any person within its jurisdiction the equal protect [sic]  
17 of the laws. [citation omitted].

18 Doc. 1.

19 Rule 8(a)(2) requires a “short and plain statement of the claim showing that the  
20 pleader is entitled to relief,” so that the defendant has “fair notice of what the . . . claim is and  
21 the grounds upon which it rests.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555  
22 (2007)(quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Here, Defendant Gateway is  
23 never mentioned in the Complaint. Accordingly, the Complaint fails to state a claim against  
24 this Defendant under *Twombly* and the motion to dismiss will be granted. To the extent  
25 Plaintiff responded to this motion by a motion (Doc. 13), Plaintiff’s motion will be denied.

### 26 **B. Motion for Sanctions**

27 Defendant Gateway has also moved for sanctions under Rule 11(b) against Plaintiff  
28 for her various filings, including her continuous efforts to seeks default against Defendant  
Gateway while its motion to dismiss is pending. Doc. 29. Defendant Gateway argues that  
these motions are for the purposes of harassment and to increase the costs of the litigation.  
The Court agrees. Therefore, Defendant Gateway may file a motion for attorneys fees for  
the time expended in responding to Plaintiff’s five pending motions relating default (Docs.  
21, 22, 23, 25, and 31). To the extent Plaintiff has opposed the request for sanctions by a  
motion (Doc. 34), Plaintiff’s motion is denied. Further, all the pending motions for default

1 will be denied.

2 **C. Other Pending Motions**

3 Also pending are two motions to amend and one motion for sanctions filed by  
4 Plaintiff. The motion for sanctions has failed to establish an entitlement to sanctions and will  
5 be denied. The two motions to amend are called, “motion to amend - substitution of a  
6 misnomer correction to party served.” Docs. 5 and 6. They appear to be the same document  
7 filed twice. Further, they are virtually identical copies of the original complaint. Re-filing  
8 the same document three times does not justify granting leave to amend. Therefore, these  
9 motions will be denied.

10 Accordingly,

11 **IT IS ORDERED** that the motion to dismiss of Defendant Gateway (Doc. 12) is  
12 granted. Defendant Gateway is dismissed, with prejudice, because the Complaint fails to  
13 state a claim against this Defendant. The Clerk of the Court shall not enter judgment at this  
14 time.

15 **IT IS FURTHER ORDERED** that on Wednesday, July 10, 2013 at 2:30 p.m.,  
16 Plaintiff shall appear and show cause why the two remaining Defendants (Office of Civil  
17 Rights and Colorado Department of Education) should not be dismissed for failing to serve  
18 within the time limits of Federal Rule of Civil Procedure 4(m). If Plaintiff fails to appear,  
19 or fails to show cause, judgment will be entered dismissing the Complaint against ALL  
20 Defendants.

21 **IT IS FURTHER ORDERED** that Gateway’s motion for sanctions (Doc. 29) is  
22 granted to the extent specified above. Gateway may file a motion for attorneys fees  
23 (consistent with the procedures required by the Local Rules) by July 9, 2013.

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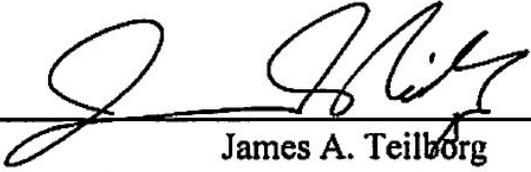
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**IT IS FINALLY ORDERED** that all other pending motions (Docs. 13, 15, 16, 21, 22, 23, 25, 31, 34 and 36) are denied.

DATED this 12<sup>th</sup> day of June, 2013.

  
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**James A. Teilborg**  
**Senior United States District Judge**