

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**CIVIL MINUTES - GENERAL**

Case No. LA CV10-08026 JAK (AJWx) Date October 3, 2011

Title Southern California Institute of Law v. TCS Education System, et al.

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

Andrea Keifer

Deputy Clerk

Alex Joko

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

George A. Shohet

Attorneys Present for Defendants:

Jeffrey S. Whittington  
Cody Jaffe

**Proceedings: DEFENDANTS DAVID J. FIGULI AND GLOBAL EQUITIES LLC'S MOTION TO DISMISS PORTIONS OF PLAINTIFF'S FIRST AMENDED COMPLAINT (Dkt. 48)**

**DEFENDANT TCS EDUCATION SYSTEM'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT (Dkt. 49)**

The motion hearing is held. The Court expresses its tentative views on the record. Counsel for Plaintiff and Defendants address the Court. The Court grants the motion to dismiss without leave to amend as to the second cause of action for negligent misrepresentation against TCS. No facts are alleged as to any misrepresentation, only a claim as to a breach of implied promise. This is the same defect noted by Judge Gutierrez as to the prior version of the complaint. Accordingly, there is no basis for a further effort to amend. The Court denies the motion to dismiss the third cause of action for misappropriation of trade secrets as to Defendant TCS, but grants the motion to dismiss the third cause of action as to Defendants Figuli and HEG, with leave to amend, so the Plaintiff can determine whether the agency claims regarding the Defendants can, in good faith, be pleaded in the alternative. The motion to dismiss the fourth cause of action for tortious interference with contract is granted with leave to amend. Plaintiff's counsel is directed to be mindful of the obligations to plead in good faith given the aforementioned agency issue. Thus, if Figuli and HEG are agents of TCS, in general neither could interfere with a TCS contract because they could be deemed to be the equivalent of a party to the contract. The Court denies the motion to dismiss the fifth cause of action for a violation of the unfair competition law. Plaintiff shall file its second amended complaint no later than October 17, 2011.

Counsel confer with the Court regarding a settlement procedure. Counsel shall confer regarding discovery and whether the parties believe a settlement conference with a Magistrate Judge or a third-party neutral would be productive. The Court sets a status conference re settlement for November 28, 2011 at 1:30 p.m. Counsel shall file a joint report regarding their respective views on a settlement procedure by November 21, 2011. The Court will determine whether the November 28, 2011 hearing is necessary upon review of the report.

**IT IS SO ORDERED.**

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Initials of Preparer

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