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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

XANTHI GIONIS,

 Plaintiff,

 v.

CALIFORNIA BUREAU OF PRIVATE
POSTSECONDARY EDUCATION, ET.
AL.,

 Defendants.

No. 2:13-cv-00912-MCE-CKD

ORDER

Plaintiff Xanthi Gionis (“Plaintiff”) seeks relief from Defendants for claims arising from her term as Provost of Aristotle University and her candidacy for the California State Senate. Specifically, Plaintiff alleges causes of action for violations of due process pursuant to the Fourteenth Amendment, the Private Post-Secondary Education Act of 2009, the California Education Code, the California Code of Regulations, and the California Business and Professions Code. Compl., May 8, 2013, ECF No. 1. Plaintiff also alleges causes of action for negligence, misrepresentation, breach of contract, intentional infliction of emotional distress, and defamation. Id.

Currently pending before the Court are the following motions by Defendants: Defendant R&R Staffing Agency’s Motion for a More Definite Statement, ECF No. 7; Defendant Mark Wyland’s Motion to Dismiss and Motion to Strike, ECF No. 15;

1 Defendant Pacific Health Education Center's Motion to Dismiss, ECF No. 22; and a
2 Motion to Dismiss by Defendants Connie Bouvia, the California Bureau for Private
3 Postsecondary Education, the California Department of Consumer Affairs, Russ
4 Heimerich, Laura Metune, and Julissa Silva-Garcia, ECF No. 28. Also pending before
5 the Court is Plaintiff's Motion for Order Allowing Voluntary Dismissal of Complaint
6 Without Prejudice, ECF No. 56.¹ Plaintiff filed an opposition to Pacific Health's Motion to
7 Dismiss, ECF No. 77.²

8 Several of these motions were set for hearings in October. However, Plaintiff
9 represented to the Court that Plaintiff had been abandoned by her counsel and thus she
10 was unable to respond to the motions in a timely manner. The Court therefore continued
11 motion hearings and issued an Order to Show Cause to Plaintiff's Counsel, Keith R.
12 Oliver, as to why sanctions should not issue against him pursuant to Rule 11. Order,
13 Oct. 28, 2013, ECF No. 58.

14 Thereafter, Plaintiff filed a motion for a sixty day extension of time to retain new
15 counsel, to allow Plaintiff to respond to these various motions by Defendants. Mot., Oct.
16 28, 2013, ECF No. 63. Based on Plaintiff's representations that she had been
17 abandoned by her attorney, the Court granted this motion for an extension of time and
18 granted Plaintiff sixty days to retain competent counsel and oppose the various motions
19 filed by Defendants. That order was docketed on November 15, 2013. See ECF No. 76.
20 Plaintiff's sixty days expired on January 14, 2014, and Plaintiff did not file any additional
21 responses to Defendants' motions. Nor did Plaintiff inform the Court of her reasons for
22 failing to respond, failing to retain new counsel, or failing to apprise the Court within the
23 sixty day period that she did not intend to retain new counsel. Additionally, Plaintiff has
24 not retained new counsel, leading the Court to suspect that Plaintiff, and Plaintiff's
25 counsel Keith R. Oliver, have abused the Court's lenience in granting the sixty-day

26 ¹ Additionally pending before the Court is Defendant Pacific Health Education Center's Motion for
27 Sanctions, ECF No. 33, which is addressed in a separate order.

28 ² Because oral argument would not be of material assistance, the Court orders these matters
submitted on the briefs pursuant to E.D. Cal. Local R. 230(g).

1 extension.

2 **A. Unopposed Motions**

3 Pursuant to Local Rule 230(c), the opposition to a motion must be filed not less
4 than fourteen (14) days prior to the date of the hearing. The date of the hearing on
5 these Motions was set for February 6, 2014. Fourteen (14) days prior to the hearing was
6 January 23, 2014. Moreover, the sixty days which the Court afforded Plaintiff to oppose
7 these motions expired on January 14, 2014.

8 Because no oppositions were filed as required, Defendant R&R Staffing Agency's
9 Motion for a More Definite Statement, ECF No. 7; Defendant Mark Wyland's Motion to
10 Dismiss and Motion to Strike, ECF No. 15; Defendants Connie Bouvia, the California
11 Bureau for Private Postsecondary Education, the California Department of Consumer
12 Affairs, Russ Heimerich, Laura Metune, and Julissa Silva-Garcia's Motion to Dismiss,
13 ECF No. 28, are each GRANTED.

14 **B. Pacific Health Education Center's Motion to Dismiss**

15 Plaintiff did file an opposition, ECF No. 78, and then an amended opposition, ECF
16 No. 77, to Defendant Pacific Health Education Center's Motion to Dismiss, ECF No. 22.
17 However, this opposition merely asks the Court for leave to amend, as Plaintiff claims
18 she "has been effectively abandoned by her attorney of record" Am. Opp'n at 2.
19 Plaintiff states that she will file an amended complaint which states sufficient facts to
20 support her claims. *Id.* While Plaintiff makes the half-hearted argument that she has
21 successfully stated a claim for a violation of California's Unfair Competition Law, Cal.
22 Bus. & Prof. Code § 17200, claims for violations of the "unlawful" prong of the UCL must
23 be tethered to a violation of some underlying law. People v. McKale, 25 Cal.3d 626, 635
24 (1979). Because Plaintiff's UCL claim is predicated on the same conduct giving rise to
25 plaintiff's other causes of action, all of which are subject to dismissal, Plaintiff's UCL
26 claim fails as well. See generally Cel-Tech Comms., Inc. v. L.A. Cellular Tel. Co., 20
27 Cal.4th 163, 180 (1999) (claim under "unfair" prong of UCL requires conduct threatening
28 incipient violation of antitrust laws); Krantz v. BT Visual Images, LLC, 89 Cal. App. 4th

1 164, 178 (2001) (violation under “unlawful” prong of UCL requires underlying violation of
2 law).

3 Accordingly, Defendant Pacific Health Education Center’s Motion to Dismiss, ECF
4 No. 22, is GRANTED.

5
6 **CONCLUSION**
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8 Accordingly, the following motions are GRANTED:

- 9 1. Defendant R&R Staffing Agency’s Motion for a More Definite Statement,
10 ECF No. 7;
- 11 2. Defendant Mark Wyland’s Motion to Dismiss and Motion to Strike, ECF No.
12 15;
- 13 3. Defendant Pacific Health Education Center’s Motion to Dismiss, ECF No.
14 22;
- 15 4. Defendants Connie Bouvia, the California Bureau for Private
16 Postsecondary Education, the California Department of Consumer Affairs,
17 Russ Heimerich, Laura Metune, and Julissa Silva-Garcia’s Motion to
18 Dismiss, ECF No. 28;
- 19 5. Plaintiff’s Motion to Voluntarily Dismiss the Complaint Without Prejudice,
20 ECF No. 56, is DENIED AS MOOT; and
- 21 6. The hearing on these motions, currently scheduled for February 6, 2014, is
22 HEREBY VACATED and these matters are submitted on the briefs
23 pursuant to Local Rule 230(g).

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1 The causes of action dismissed by this Order are DISMISSED WITH LEAVE TO
2 AMEND. If no amended complaint is filed within thirty (30) days of the date of this Order,
3 the causes of action dismissed by this Order shall be dismissed with prejudice without
4 further notice to the parties.

5 IT IS SO ORDERED.

6 Dated: January 24, 2014

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT