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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**GEORGE J. AUSTIN,**

Plaintiff,

vs.

**GEORGETOWN UNIVERSITY, ET AL.,**

Defendants.

CASE No. 19-cv-05631-YGR

**ORDER GRANTING MOTION OF  
DEFENDANT GEORGETOWN UNIVERSITY  
TO DISMISS AMENDED COMPLAINT;  
DISMISSING ALL DEFENDANTS**

Dkt. No. 103

Presently before the Court is the motion of defendant Georgetown University to dismiss the amended complaint filed by plaintiff George J. Austin. (Dkt. No. 103.) Having carefully considered the papers submitted and the pleadings in this action, and for the reasons set forth below, the Court **GRANTS** the Motion to Dismiss **WITHOUT LEAVE TO AMEND**.

**I. BACKGROUND**

Plaintiff filed this action on September 6, 2019, originally alleging claims for damages against defendants Georgetown University, Georgetown University Law Center, and an unknown photographer commissioned by Georgetown based on alleged “Commercial Appropriation of Photograph” and “Invasion of Privacy.” (Dkt. No. 1.) This claim alleged that Georgetown used a photograph of Austin in a marketing brochure for their law school without his consent or authorization, and that Georgetown’s simultaneous discrimination against him “intensified” their liability. (*Id.* at 7-8.) Georgetown filed a motion to dismiss the original complaint, followed by Austin’s request to file an Amended Complaint, mooting the pending motion.

After seeking permission to file an Amended Complaint, Austin filed an “interim draft Amended Complaint” (Dkt. No. 74) and an additional 15 “notices” (Dkt. Nos. 75-78, 81-91). The

1 Court struck all the “notices” in its January 19, 2021 Order, stating:

2 In light of pending motion to dismiss and plaintiff’s deadline to file a complete  
3 amended pleading by February 2, 2021, the case management conference set for  
4 Monday, January 25, 2021 is VACATED. Plaintiff’s request for an extension of  
time to submit a case management statement (Dkt. No. 93) is DENIED AS  
MOOT to be reset on further notice.

5 Plaintiff George J. Austin is hereby ADMONISHED to limit his filings to  
6 documents pertaining to specific motions or hearings. Plaintiff’s multiple  
7 submissions of “notices” concerning “material facts, context, and identity  
verification” and attaching voluminous exhibits are apparently unrelated to any  
pending motion or pleading, and thus are improper filings.

8 The notices filed by plaintiff at Docket Nos. 56, 57, 58, 59 60, 61, 62, 63, 64, 65,  
9 66, 68, 60, 71, 72, 77, 78, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, and 91 are  
STRICKEN and will not be considered by the Court.

10 (Dkt. No. 94.)<sup>1</sup>

11 Austin filed a 180-page document captioned “Amended Complaint” on February 2, 2021.  
12 (Dkt. No. 98, “AC”.) In addition to the original claim concerning the brochure, Austin added  
13 allegations that Georgetown subjected him to a variety of torts, discriminated against him on the  
14 basis of a disability, and retaliated against him while he was enrolled in Georgetown’s law school.  
15 (*See* AC at 65-180.) He alleges claims for defamation, “right of publicity,” invasion of privacy,  
16 intentional infliction of emotional distress, fraudulent misrepresentation, fraudulent concealment,  
17 false light, tortious interference with economic advantage, disability discrimination and retaliation.  
18 (*Id.*)

19 Georgetown now moves to dismiss the Amended Complaint. (Dkt. No. 103.) Georgetown  
20 seeks dismissal on four grounds: (1) the Court lacks personal jurisdiction; (2) the claims are all  
21 barred based upon the applicable statutes of limitations; (3) the Amended Complaint fails to allege

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23 <sup>1</sup> Plaintiff thereafter filed additional documents including Dkt. No. 95  
24 [“Acknowledgement of Order”] and a series of filings [Dkt. Nos. 96, 100, 101] that he represents  
25 to be documents “informing the court of existing bias” and providing “contextual information” for  
26 his allegations. Docket No. 96 is a printout of what appears to be an online complaint Austin  
27 made to the United States Department of Justice alleging discrimination by Georgetown against  
28 him on account of age, disability, family status, genetic information, and race/color. Docket Nos.  
100 and 101 are captioned “Disclosures Per General Order 40 Prohibition of Bias” and attach  
printouts from various online publications concerning racial bias against Black lawyers. While the  
Court understands plaintiff to offer the documents as context for his allegations of discrimination  
and retaliation, they are not relevant to analysis of the Court’s jurisdiction and have not been  
considered in connection with this Order.

1 facts sufficient to state the claims; and (4) plaintiff failed to comply with Rule 8’s requirements to  
2 provide a “short and plain statement of the claim.” Plaintiff opposes the motion.<sup>2</sup> Because the  
3 Court finds that it lacks personal jurisdiction over Georgetown, it does not reach the additional  
4 grounds.

5 **II. DISCUSSION**

6 Defendant Georgetown contends that Austin failed to offer a proper basis for personal  
7 jurisdiction over it. In the Amended Complaint here, Austin alleged that Georgetown is an  
8 “education corporation organized and existing under the laws of the District of Columbia with its  
9 principal place of business in that District, its headquarters, located in the District of Columbia.”  
10 (AC at 17). He further alleged:

11 Because a) marketing material of Plaintiff, by use of Defendants Georgetown,  
12 was discovered by Plaintiff’s friend in California (also a citizen of California),  
13 and b) materials were intentionally sent for purpose of attracting business, as  
14 evidence by (application costs and selling points of Defendant’s organization, and  
15 service in the materials including Plaintiff), and c) all marketing to Plaintiff by  
16 Georgetown happened in California, and d) California is a high contact, and  
17 regularly recruited from State for Georgetown representing a significant number  
18 of their students), and e) with physical locations in the state in partnership with  
19 local institutions the minimum contact standard would be more than met as  
20 Defendants “act[ed] purposefully to connect herself to the forum state;” - 9. *Asahi  
21 Metal Industry Co. v. Superior Court*, 480 U.S. 102 (1987).

22 (AC at 18.)

23 Under Rule 12(b)(2), a defendant may be dismissed if the court lacks personal jurisdiction  
24 over it. Federal courts ordinarily follow state law in determining the bounds of their jurisdiction

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25 <sup>2</sup> The Court previously ruled on self-represented plaintiff’s motion for extension of time  
26 (Dkt. No. 108) and motion to continue the hearing (Dkt. No. 109) on defendant’s motion to  
27 dismiss. (See Order at Docket No. 112.) As stated therein, defendant did not oppose plaintiff’s  
28 request that the Court consider his opposition documents, filed at Dkt. Nos. 104, 105, and 106,  
despite some of them being filed untimely. The Court has considered those documents in  
connection with Austin’s opposition to the instant motion.

However, subsequent to the close of briefing on this motion, Austin filed additional  
documents seeking clarification about filing “publicly available exhibits, testimony, on the record,  
and coverage highlighting issues raised in pleadings” which Austin contends relate to his earlier  
filings. (See Dkt. Nos. 113 at 2 and 114 at 2; see also Dkt. Nos. 115 [“Letter, Article, Public  
Testimony”] and 116 [“Letter American Bar Association”].) Those additional documents, filed  
without leave of Court, and not directly in support of or opposition to any pending motion or  
hearing, are **STRICKEN**. Again, the documents submitted are not relevant to analysis of the Court’s  
jurisdiction and have not been considered in connection with this Order.

1 over parties, looking to the state’s long arm statute regarding service of summons. *See* Fed. Rule  
 2 Civ. Proc. 4(k)(1)(A) (service of process effective to establish personal jurisdiction over defendant  
 3 subject to jurisdiction in the state court where the district is located); *Daimler AG v. Bauman*, 571  
 4 U.S. 117, 125 (2014) (same). California’s long-arm statute, in turn, permits exercise of personal  
 5 jurisdiction to the full extent permitted by federal due process. *Id.*; *see also Williams v. Yamaha*  
 6 *Motor Co.*, 851 F.3d 1015, 1020 (9th Cir. 2017). The party filing the complaint bears the burden  
 7 to establish jurisdiction. *Boschetto v. Hansing*, 539 F.3d 1011, 1015 (9th Cir. 2008); *see also*  
 8 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004).

9 In deciding whether a *prima facie* showing of personal jurisdiction has been made, a  
 10 district court must accept as true the uncontroverted allegations in the complaint, and conflicts  
 11 between facts contained in the parties’ affidavits must be resolved in a plaintiff’s favor. *AT&T v.*  
 12 *Compagnie Bruxelles Lambert*, 94 F.3d 586, 588 (9th Cir. 1996). “[T]he plaintiff cannot simply  
 13 rest on the bare allegations of its complaint,” but “uncontroverted allegations in the complaint  
 14 must be taken as true.” *Schwarzenegger*, 374 F.3d at 800.

15 For purposes of federal due process, two types of personal jurisdiction exist: general and  
 16 specific. *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco Cty.*, 137 S. Ct.  
 17 1773, 1779–81 (2017). “A court with general jurisdiction may hear *any* claim against that  
 18 defendant, even if all the incidents underlying the claim occurred in a different State.” *Id.* A court  
 19 with only specific jurisdiction over a defendant is limited to hearing claims deriving from the facts  
 20 that establish jurisdiction in the forum. *Id.*

21 **A. General Jurisdiction**

22 To demonstrate general jurisdiction over a defendant in California, plaintiff must establish  
 23 that the defendant has contacts that are “so ‘continuous and systematic’ as to render [it] essentially  
 24 at home in” California. *Williams*, 851 F.3d at 1020 (citing *Goodyear Dunlop Tires Operations,*  
 25 *S.A. v. Brown*, 564 U.S. 915, 919 (2011)). As the Supreme Court held in *Daimler AG*, general  
 26 jurisdiction is limited to the circumstance in which a defendant’s “affiliations with the State are so  
 27 ‘continuous and systemic’ as to render [it] essentially at home in the forum State.” *Id.* at 119  
 28 (quoting *Goodyear*, 564 U.S. at 919). In *Daimler AG*, the Supreme Court reversed the Ninth

1 Circuit, finding that neither Daimler nor Mercedes Benz USA’s sizable sales in California gave  
 2 rise to all-purpose, general jurisdiction there. *Id.* at 139. Likewise, here, the allegations of the  
 3 Amended Complaint do not describe a level of continuous, systemic affiliations with California  
 4 that would establish the “exceptional case” necessary for general jurisdiction. *Id.* at 139 n.19.

5 Here, plaintiff alleges Georgetown marketed itself to him while he was in California, and  
 6 regularly recruits California residents. (AC at 18.) Numerous courts have found that long-  
 7 standing recruiting, academic exchange, and fundraising activities in the forum by a non-forum  
 8 resident university are inadequate to confer general jurisdiction. *See, e.g., Park v. Oxford Univ.*,  
 9 35 F.Supp.2d 1165, 1167 (N.D. Cal. 1997), *aff’d*, 165 F.3d 917 (9th Cir. 1998); *Gehling v. St.*  
 10 *George’s Sch. of Med., Ltd.*, 773 F.2d 539, 541–43 (3d Cir. 1985) (no general jurisdiction despite  
 11 evidence that medical college enrolled 6% of its students from the forum state, received several  
 12 hundred thousand dollars of tuition from residents of the forum state, toured cities in the forum  
 13 state, and established a joint international program with a forum state college); *Richards v. Duke*  
 14 *Univ.*, 480 F. Supp. 2d 222, 230 (D.D.C. 2007) (university’s recruiting activities and small number  
 15 of adjunct faculty residing in forum insufficient to establish personal jurisdiction; “[g]enerally,  
 16 colleges and universities are not subject to personal jurisdiction in all states from which their  
 17 students hail, as this would unfairly expose them to litigation in many distant forums.”) Thus, the  
 18 Court finds general jurisdiction is not established and personal jurisdiction over Georgetown must  
 19 be shown, if at all, by way of specific jurisdiction.

20 **B. Specific Jurisdiction**

21 Specific jurisdiction “depends on an affiliatio[n] between the forum and the underlying  
 22 controversy” that is “activity or [ ] occurrence[s] that tak[e] place in the forum State and [are]  
 23 therefore subject to the State’s regulation.” *Goodyear*, 564 U.S. at 919 (internal quotation marks  
 24 omitted). In order for a court to have specific jurisdiction over a defendant, “the defendant’s suit-  
 25 related conduct must create a substantial connection with the forum State.” *Walden v. Fiore*, 571  
 26 U.S. 277, 284 (2014). The relationship between the defendant and the forum state “must arise out  
 27 of contacts that the ‘defendant [itself]’ creates with the forum State.” *Id.* (quoting *Burger King*  
 28 *Corp. v. Rudzewicz*, 471 U.S. 462, 475 (1985)). “[A] defendant’s relationship with a plaintiff or

1 third party, standing alone, is an insufficient basis for jurisdiction.” *Id.* at 286. The Ninth Circuit  
2 applies a three-prong test to determine whether a non-resident defendant’s activities are  
3 sufficiently related to the forum state to establish specific personal jurisdiction:

- 4 (1) The non-resident defendant must purposefully direct his activities or  
5 consummate some transaction with the forum or resident thereof; or perform  
6 some act by which he purposefully avails himself of the privilege of conducting  
7 activities in the forum, thereby invoking the benefits and protections of its laws;
- 8 (2) the claim must be one which arises out of or relates to the defendant’s forum-  
9 related activities; and
- 10 (3) the exercise of jurisdiction must comport with fair play and substantial justice,  
11 *i.e.* it must be reasonable.

12 *Schwarzenegger*, 374 F.3d at 802 (citing *Lake v. Lake*, 817 F.2d 1416, 1421 (9th Cir. 1987)). The  
13 plaintiff bears the burden of demonstrating the first two prongs. *Id.* Only if the plaintiff meets  
14 their burden on both prongs one and two does the burden shift to defendant to show that the  
15 exercise of personal jurisdiction would not be reasonable. *Id.*

16 Personal jurisdiction depends upon the nature and quality of the defendant’s contacts and  
17 whether the forum state was the focus of defendants’ activities and their effects. *Calder v. Jones*,  
18 465 U.S. 783, 789 (1984). “[M]erely asserting that a defendant knew or should have known that  
19 his intentional acts would cause harm in the forum state is not enough to establish jurisdiction  
20 under the effects test.” *Zehia v. Superior Ct.*, 45 Cal. App. 5th 543, 554 (2020) (*quoting*  
21 *Pavlovich v. Superior Court*, 29 Cal.4th 262, 270-71 (2002)). “[T]he relationship must arise out  
22 of contacts that the defendant himself creates with the forum [s]tate,’ not contacts between the  
23 forum state and the plaintiff or a third party.” *Id.* (*quoting Walden*, 571 U.S. at 285 (internal  
24 formatting omitted)).

25 *I. Defendant’s Alleged Unauthorized Use of Photograph*

26 For purposes of the analysis here, it is important to keep in mind the two different, though  
27 ostensibly related, sets of facts alleged by Austin. First, underlying his claims of right of publicity  
28 and invasion of privacy are the allegations that Georgetown used his likeness in a promotional  
brochure without his consent. He alleges he was sent a photograph of Georgetown’s brochure by  
a friend who recognized him in a picture therein. He further alleges Georgetown “knowingly  
included the photograph to be included in marketing, and distribution materials . . . for

1 commercially exploitative purposes.” (AC at 21.) In opposition to the motion, he adds that  
2 Georgetown sent the brochure at issue to California. (Dkt. No. 106 at 8:10-12.)

3 The Court finds these allegations insufficient to establish Georgetown’s contacts with a  
4 California forum. While they describe purposeful activity, they do not describe purposefully  
5 directing such activity *to a California forum*. The effects test looks to whether the alleged  
6 intentional tort caused effects “in *California*, not just to a plaintiff who lived there.” *Walden*, 571  
7 U.S. at 288 (citing *Calder*, 465 U.S. at 788-89). Plaintiff alleges the photograph was used in a  
8 recruiting brochure, not apparently targeted to a California-specific audience. The photograph was  
9 taken at a time when Austin was still on the Georgetown campus in 2013. (AC at 20-21.) That  
10 Georgetown “knew or should have known” that plaintiff had returned to California at the time the  
11 brochure was circulated is not sufficient to establish jurisdiction under the effects test. *See*  
12 *Pavlovich*, 29 Cal.4th at 270-71 (posting California plaintiff’s propriety information on internet  
13 insufficient to establish “express aiming” at California forum); *see also Burdick v. Sup. Ct.*, 233  
14 Cal.App.4th 8, 25 (2015) (public posting of an allegedly defamatory statement on social media  
15 insufficient to show “substantial connection” to California even if defendants aware plaintiff  
16 resided in California; no evidence the social media page itself “intentionally targeted California as  
17 opposed to any other jurisdiction”); *Strasner v. Touchstone Wireless Repair & Logistics, LP*, 5  
18 Cal.App.5th 215, 233 (2016) (failure to establish minimum contacts for specific jurisdiction where  
19 defendant cell phone refurbisher was alleged to have uploaded sensitive photograph from  
20 plaintiff’s mobile phone without authorization and posted on plaintiff’s social media page). Thus,  
21 the contacts alleged by Austin regarding the use of his photograph in their brochure are  
22 insufficient to subject Georgetown to personal jurisdiction in a California forum.

23 2. *Defendant’s Alleged Defamation, Discrimination, and Retaliation*

24 Second, and separately, Austin alleges Georgetown was “discriminating [against him],  
25 retaliating, intentionally inflicting emotional distress, [and] tortiously interfering with his  
26 economic advantage.” (AC at 23.) He alleges that “[i]nstead of complying with their own policy  
27 on [discrimination] issues, they chose instead to further break the law . . . by placing me on  
28 sabbatical/leave of absence in my 3L year without explanation.” (*Id.*) Though at times hard to

1 follow, the Amended Complaint seems to allege that “as early as Fall of 2014,” Austin submitted  
2 multiple complaints of harassing or illegal behavior against him by Georgetown employees, and  
3 that he met with the Dean of Students about this. (*Id.* at 23, 25.) When he later asked for an  
4 “extension” due to multiple deaths of loved ones in a short period of time, he was retaliated  
5 against, placed on administrative leave, and Georgetown “reached out to police” rather than to the  
6 people and departments about which plaintiff had complained. (*Id.* at 24-25.) In opposition to the  
7 motion, he further argues that Georgetown sent the brochure to California and “sent defamatory,  
8 and still uncorrected materials” to California as well, apparently having to do with his forced leave  
9 of absence from the school. (Dkt. No. 106 at 8:10-12.) Austin further contends that Georgetown  
10 targeted its actions toward him in California, placing him on a leave of absence “in retaliation” for  
11 his complaints, sending “defamatory” messages to him by mail in California with knowledge that  
12 he had returned to California. (*Id.* at 8:14-17, 8:22-9:2, 9:12-21.)

13           These allegations, too, fail to establish a basis for specific personal jurisdiction over  
14 Georgetown in a California forum. The allegations describe conduct that occurred *at Georgetown*,  
15 prior to Austin’s leave of absence and return to California. While Austin argues the injury to him  
16 is ongoing due to the “defamatory” and “uncorrected” materials Georgetown has since mailed to  
17 him (Dkt. No. 106 at 8:10-11, 8:22-23, 9:20-23), his alleged complaints to Georgetown’s  
18 administration, and the retaliation and forced leave of absence he asserts followed, all occurred  
19 outside California. That those actions fortuitously have an effect in this forum because Austin  
20 now resides in California does not confer jurisdiction over Georgetown here. *Walden*, 571 U.S. at  
21 288; *see also Roman v. Liberty Univ., Inc.*, 162 Cal.App.4th 670, 680 (2008) (university’s  
22 recruitment of plaintiff in California and his execution of scholarship agreement in California were  
23 insufficient to establish California jurisdiction; no substantial connection between those activities  
24 and plaintiff’s subsequent injury while enrolled at university). In sum, Austin has also failed to  
25 demonstrate that Georgetown is subject to personal jurisdiction in a California forum based on its  
26 alleged conduct in connection with his alleged forced leave of absence or related retaliatory and  
27 defamatory actions.

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**III. CONCLUSION**

Accordingly, the Motion to Dismiss is **GRANTED WITHOUT LEAVE TO AMEND** for lack of personal jurisdiction over defendant Georgetown University (also named in the Amended Complaint as Georgetown University Law Center). Defendants Georgetown University and Georgetown University Law Center are **DISMISSED**.


The Court notes that one defendant, named as “Photographer Commissioned by Georgetown” has not yet been served, although this action has been pending for nearly two years. This last defendant is **DISMISSED** for failure to prosecute.

This terminates Docket No. 103.

The Clerk is directed to close the file.

**IT IS SO ORDERED.**

Dated: July 14, 2021

  
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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**