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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LePATNER & ASSOCIATES, LLP.,
PROACTIVE INTEGRITY
ASSOCIATES, LLC, and LePATNER
C3, LLC,

Plaintiffs,

vs.

THOMAS JEFFERSON SCHOOL OF
LAW and RUDY HASL,
Defendants.

CASE NO. 13-CV-01950-H (JMA)

**ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS WITHOUT
PREJUDICE**

[Doc. No. 13]

On August 21, 2013, Plaintiffs LePatner & Associates, LLP, Proactive Integrity Associates, LLC, and LePatner C3, LLC ("Plaintiffs") filed a complaint against Defendants Thomas Jefferson School of Law and Rudy Hasl ("Defendants"), alleging state law causes of action for breach of contract, intentional misrepresentation, negligent misrepresentation, and quantum meruit. (Doc. No. 1.) On November 20, 2013, Defendants filed a motion to dismiss Plaintiffs' complaint. (Doc. No. 13.) On December 23, 2013, Plaintiffs filed their opposition to Defendants' motion. (Doc. No. 14.) On December 30, 2013, Defendants filed their reply. (Doc. No. 15.) On December 31, 2013, the Court vacated a hearing scheduled for January 6, 2014, and submitted the motion. (Doc. No. 16.) The Court grants Defendants' motion to dismiss without prejudice.

1 Federal Rule of Civil Procedure 17(b) requires that all entities initiating a lawsuit
2 in federal court have legal capacity to sue. Subsection 3 of the rule describes the
3 requirements for all entities other than individuals and corporations; it directs courts
4 to apply “the law of the state where the court is located” in determining whether an
5 entity has capacity to sue. Fed. R. Civ. P. 17(b)(3). Defendants argue, and Plaintiffs
6 concede, that California law requires foreign limited liability companies and
7 partnerships to register in the state before it can maintain any legal action in the state.
8 (Doc. No. 13-1 at 17; Doc. No. 14 at 21.) See also Cal. Corp. Code § 16959(h) (“A
9 foreign limited liability partnership transacting intrastate business in this state shall not
10 maintain any action, suit, or proceeding in any court of this state until it has registered
11 in this state pursuant to this section.”); Cal. Corp. Code § 17708.07(a) (“A foreign
12 limited liability company transacting intrastate business in this state shall not maintain
13 an action or proceeding in this state unless it has a certificate of registration to transact
14 intrastate business in this state.”).¹ Plaintiffs further concede that the California
15 Secretary of State had not yet issued their registrations as of the date on which they
16 filed their opposition to Defendant’s motion to dismiss. (Doc. No. 14-1, LePatner
17 Decl., ¶¶ 2-4.) The Court, in view of the present record, determines that Plaintiffs lack
18 the capacity to sue within the meaning of Rule 17.

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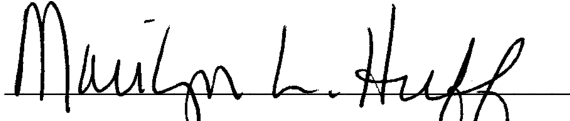
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26 ¹The California Corporate Code defines “intrastate business” as “entering into
27 repeated and successive transactions of its business in this state, other than interstate
28 or foreign commerce.” Cal. Corp. Code § 191. Plaintiffs also do not dispute
Defendant’s assertion that Plaintiffs conduct intrastate business in California within the
meaning of the phrase under California law. (See Doc. No. 13-1 at 18-19; Doc. No. 14
at 21.)

1 Accordingly, the Court grants Defendants’ motion to dismiss without prejudice.
2 To cure deficiencies in their legal capacity, Plaintiffs must file a notice confirming their
3 completed registrations and full compliance with Federal Rule of Civil Procedure 17(b)
4 within **thirty (30) days** from the date of this order. Failure to do so may result in the
5 dismissal of this action.

6 **IT IS SO ORDERED.**

7 DATED: January 3, 2014

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9 MARILYN L. HUFF, District Judge
10 UNITED STATES DISTRICT COURT
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