

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLANDChambers of  
**George L. Russell, III**  
United States District Judge101 West Lombard Street  
Baltimore, Maryland 21201  
410-962-4055

March 6, 2017

MEMORANDUM TO PARTIES RE:

The Harry and Jeanette Weinberg Foundation,  
Inc. v. St. Marks Avenue, LLC, et al.  
Civil Action No. GLR-15-3525

Dear Parties:

Pending before the Court is Defendant Stacy Smith's Motion to Dismiss for Failure to State a Claim (ECF No. 40). The Motion is ripe for disposition and no hearing is necessary. See Local Rule 105.6 (D.Md. 2016). For the reasons outlined below, the Court will deny the Motion without prejudice.

Plaintiff The Harry and Jeanette Weinberg Foundation, Inc. (the "Foundation") is a private Maryland organization that provides grants to organizations that offer direct services to disadvantaged and vulnerable individuals. (Am. Compl. ¶ 3, ECF No. 57). Smith is the Chief Executive Officer and registered agent of Communities Organized to Improve Life, Inc. ("COIL"), a not-for-profit corporation organized under Maryland law. (Id. ¶¶ 6, 7). This matter involves the sale of property located at 1200 West Baltimore Street, Baltimore, Maryland 21223, COIL's principal address. (Id. ¶¶ 6, 18–21).

On November 19, 2015, the Foundation sued Smith, raising claims for false endorsement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) (2012) (Count I); breach of contract (Count II); civil conspiracy (Count III); and accounting as to both COIL and Smith (Count IV). (Compl., ECF No. 1). On June 28, 2016, the Foundation filed a Motion for Leave to File an Amended Complaint. (ECF No. 38). Smith did not oppose the Motion. On July 16, 2016, Smith filed a Motion to Dismiss for Failure to State a Claim (ECF No. 40) and the Foundation filed a Response on July 27, 2016 (ECF No. 41). Smith did not file a Reply. On December 5, 2016, the Court granted the Foundation's Motion (ECF No. 56) and the Foundation filed an Amended Complaint on the same day. (Am. Compl., ECF No. 57). When a plaintiff files an amended complaint, it generally moots any pending motions to dismiss because the original complaint is superseded. Venable v. Pritzker, No. GLR-13-1867, 2014 WL 2452705, at \*5 (D.Md. May 30, 2014), aff'd, 610 F. App'x 341 (4th Cir. 2015). Accordingly, the Court will deny Smith's Motion without prejudice.

For the foregoing reasons, Smith's Motion to Dismiss for Failure to State a Claim (ECF No. 40) is DENIED WITHOUT PREJUDICE. Despite the informal nature of this Memorandum, it shall constitute an Order of the Court, and the Clerk is directed to docket it accordingly and mail a copy to Smith at her address of record.

Very truly yours,

/s/

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George L. Russell, III  
United States District Judge