

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Apr 15, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MILDRED SHANKLIN, individually  
and as Personal Representative of the  
Estate of John Shanklin,

Plaintiff,

v.

COULEE MEDICAL CENTER, a  
medical care facility that is fully  
owned and operated by the Douglas,  
Grant, Lincoln, & Okanogan County  
Hospital District No. 6; DOUGLAS,  
GRANT, LINCOLN, and  
OKANOGAN COUNTIES PUBLIC  
HOSPITAL DISTRICT NO. 6, a  
public entity doing business as the  
Coulee Medical Center; ROGER ST.  
CLAIRE, acting in his capacity as an  
employee of Coulee Medical Center;  
LARRY J. RUSE, acting in his  
capacity as an employee of Coulee  
Medical Center; JOYCE BODEAU,  
acting in her capacity as an employee  
of Coulee Medical Center; and  
KARIE SCHULER, acting in her  
capacity as an employee of Coulee  
Medical Center;

Defendants.

NO: 2:17-CV-377-RMP

ORDER GRANTING  
DEFENDANTS' MOTION TO  
DISMISS

1 BEFORE THE COURT is Defendants' Motion to Dismiss for Failure to  
2 State a Claim, ECF No. 15. Defendants Coulee Medical Center; Grant, Lincoln, &  
3 Okanogan County Hospital District No. 6; Roger St. Claire; Larry J. Ruse; Joyce  
4 Bodeau; and Karie Schuler move to dismiss Plaintiff Mildred Shanklin's  
5 Complaint, ECF No. 1. A hearing was held in this matter on March 22, 2019. Ms.  
6 Shanklin was represented by Jerry Moberg. Defendants were represented by  
7 James King. The Court has considered the parties' arguments, briefing, and the  
8 record, and is fully informed.

### 9 **BACKGROUND**

10 The following are the facts as alleged in Ms. Shanklin's complaint, ECF No.  
11 1. Ms. Shanklin is the surviving spouse of John Shanklin. *Id.* at 4. In May of  
12 2014, Ms. Shanklin alleges that Mr. Shanklin suffered a stroke that left him weak  
13 on one side of his body. *Id.* This made Mr. Shanklin a high risk to fall and  
14 confined him to a wheelchair at most times. *Id.* For over a year following Mr.  
15 Shanklin's stroke, Ms. Shanklin cared for him at their home. *Id.* Ms. Shanklin  
16 alleges that Mr. Shanklin did not fall a single time under her care. *Id.*

17 By May of 2016, Ms. Shanklin alleges that she was unable to provide her  
18 husband with the 24-hour care that he needed. ECF No. 1 at 4. She claims that she  
19 placed him in a nursing home care facility in a town sixty miles away from Ms.  
20 Shanklin's home for about six months. *Id.* Throughout those six months, Ms.  
21 Shanklin claims that Mr. Shanklin did not fall a single time. *Id.* However, Ms.

1 Shanklin claims that she was unhappy with the distance that she had to travel to see  
2 her husband, so she sought a closer nursing home in which to place Mr. Shanklin.  
3 *Id.* at 4–5. She alleges that she placed her husband into the care of Defendant  
4 Coulee Medical Center (“CMC”). *Id.* at 5.

5 At CMC, Ms. Shanklin alleges that her husband was identified as a patient  
6 with a high risk of falling. ECF No. 1 at 5. According to Ms. Shanklin, however,  
7 CMC and the individual Defendants, who were all responsible for Mr. Shanklin’s  
8 care, failed to or refused to develop a care plan that would protect him from falling.  
9 *Id.* As a result, Ms. Shanklin alleges that Mr. Shanklin fell four times over a  
10 period of four months. *Id.* at 5–7. Ms. Shanklin claims that Defendants failed to  
11 properly supervise Mr. Shanklin to keep him from falling or take precautions to  
12 prevent any injury resulting from the falls. *Id.* Three days after Mr. Shanklin’s  
13 fourth fall, Mr. Shanklin passed away. *Id.* at 7–8.

14 Ms. Shanklin filed this complaint individually and as the personal  
15 representative of her husband’s estate against Defendants for violations of the  
16 Federal Nursing Home Reform Amendments (“FNHRA”) and several claims under  
17 state law. ECF No. 1 at 8–13. Defendants now move to dismiss the complaint,  
18 arguing that the FNHRA does not apply to them and that the FNHRA is not  
19 enforceable through section 1983. ECF No. 15.

20 / / /

21 / / /

## LEGAL STANDARD

1  
2 After a defendant files its answer, the defendant may move for judgment on  
3 the pleadings.<sup>1</sup> Fed. R. Civ. P. 12(c). Similar to a Rule 12(b)(6) motion, the court  
4 accepts all factual allegations in the complaint as true and construes them in the  
5 light most favorable to the non-moving party. *Fleming v. Pickard*, 581 F.3d 922,  
6 925 (9th Cir. 2009). The analysis for a Rule 12(c) motion is “substantially  
7 identical” to the analysis for a Rule 12(b)(6) motion. *Chavez v. United States*, 683  
8 F.3d 1102, 1108 (9th Cir. 2012). Judgment on the pleadings is appropriate when  
9 there is no issue of material fact in dispute and the moving party is entitled to  
10 judgment as a matter of law. *Fleming*, 581 F.3d at 925.

11 A plaintiff’s complaint must plead “enough facts to state a claim to relief  
12 that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570  
13 (2007). A claim is plausible when the plaintiff pleads “factual content that allows  
14 the court to draw the reasonable inference that the defendant is liable for the  
15 misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While the Court  
16 construes the facts in the light most favorable to the non-moving party, a court is  
17 not required to “assume the truth of legal conclusions merely because they are cast  
18

---

19 <sup>1</sup> Because Defendants have filed an answer, ECF No. 10, the Court construes  
20 Defendants’ Motion to Dismiss under Rule 12(b)(6) as a Motion for Judgment on  
21 the Pleadings under Rule 12(c). Fed. R. Civ. P. 12(c) (“After the pleadings are  
closed—but not early enough to delay trial—a party may move for judgment on  
the pleadings.”).

1 in the form of factual allegations.” *Fayer v. Vaughn*, 649 F.3d 1061, 1064 (9th Cir.  
2 2011) (per curiam) (internal quotation omitted). A plaintiff’s complaint cannot  
3 survive if it is solely supported by “conclusory allegations of law and unwarranted  
4 inferences.” *Adams v. Johnson*, 355 F.3d 1179, 1183 (9th Cir. 2004).

## 5 **DISCUSSION**

6 Defendants make two arguments as to why Ms. Shanklin’s FNHRA claim  
7 should be dismissed. First, they argue that CMC is not a “nursing facility” that is  
8 regulated by the FNHRA. ECF No. 15 at 4. Second, they argue that the FNHRA  
9 is not enforceable through section 1983 litigation. *Id.* at 8.

### 10 ***Coulee Medical Center’s Status as a Nursing Facility as Defined by the FNHRA***

11 The parties dispute whether CMC is a “nursing facility” under the FNHRA.  
12 ECF No. 15 at 4; ECF No. 21 at 8.

13 When interpreting a statute, the Court begins with the statute’s text. *United*  
14 *States v. Neal*, 776 F.3d 645, 652 (9th Cir. 2015). “We interpret statutory terms in  
15 accordance with their ordinary meaning, unless the statute clearly expresses an  
16 intention to the contrary.” *Id.*

17 Under the FNHRA, a “nursing facility” is defined as “an institution (or a  
18 distinct part of an institution) which (1) is primarily engaged in providing to  
19 residents (A) skilled nursing care and related services for residents who require  
20 medical or nursing care, (B) rehabilitation services for the rehabilitation of injured,  
21 disabled, or sick persons, or (C) on a regular basis, health-related care and services

1 to individuals who because of their mental or physical condition require care and  
2 services (above the level of room and board) which can be made available to them  
3 only through institutional facilities, and is not primarily for the care and treatment  
4 of mental diseases; (2) has in effect a transfer agreement (meeting the requirements  
5 of section 1395x(l) of this title) with one or more hospitals having agreements in  
6 effect under section 1395cc of this title; and (3) meets the requirements for a  
7 nursing facility described in subsections (b), (c), and (d) of this section.”<sup>2</sup> 42  
8 U.S.C. § 1396r(a).

9 Under this statutory definition, Defendants argue that CMC is not a “nursing  
10 facility” because the Centers for Medicare and Medicaid Services (“CMS”)   
11 designated CMC as a “critical access hospital” (“CAH”).<sup>3</sup> ECF No. 15 at 6–7.  
12 However, under the FNHRA, a nursing facility is defined by the care it provides

---

13 \_\_\_\_\_  
14 <sup>2</sup> The same definition applies to a “skilled nursing facility,” absent subsection  
15 (a)(1)(C), in a separate statute. *See* 42 U.S.C. § 1395i-3(a).

16 <sup>3</sup> In support of this argument, Defendants rely on the Declaration of Ramona  
17 Hicks, ECF No. 17. Generally, a Court should not consider matters outside the  
18 pleadings when considering a motion for judgment on the pleadings. Fed. R. Civ.  
19 P. 12(d). However, a Court can take judicial notice of facts not subject to  
20 reasonable dispute that are generally known or can be accurately and readily  
21 determined from reliable sources. *Lee v. City of L.A.*, 250 F.3d 668, 688–89 (9th  
Cir. 2001); Fed. R. Evid. 201. Defendants argue that Ms. Hicks’s declaration is  
not subject to reasonable dispute. ECF No. 15 at 7 n.1. Without a basis to  
conclude that the information in Ms. Hicks’s declaration is not subject to  
reasonable dispute, the Court cannot consider Ms. Hicks’s declaration for the  
purposes of this motion. Therefore, the Court declines to take judicial notice of  
Ms. Hicks’s declaration and will not consider it to resolve this motion.

1 rather than a designation made by a government entity. 42 U.S.C. § 1396r(a).

2 There is nothing in the text of the FNHRA that precludes a hospital like CMC from  
3 being both a nursing facility and a CAH. *See* 42 U.S.C. § 1396r. Defendants  
4 argue that proving that CMC is not a nursing facility is essentially asking them to  
5 prove a negative. ECF No. 26 at 4. While that is true, that is the reality of the  
6 judgment on the pleadings standard: the Court must construe all facts in favor of  
7 the non-moving party. *Fleming*, 581 F.3d at 925. Construing the facts in favor of  
8 Ms. Shanklin, the Court finds that the complaint plausibly alleges that CMC is a  
9 nursing facility under the definition in the FNHRA.

### 10 ***The Enforceability of the FNHRA through Section 1983***

11 The parties dispute whether the FNHRA is enforceable through a section  
12 1983 action. ECF No. 15 at 8; ECF No. 21 at 17.

13 Section 1983 allows a plaintiff to bring actions against people who, under  
14 the color of state law, deprive the plaintiff of “any rights, privileges, or immunities  
15 secured by the Constitution and laws.” 42 U.S.C. § 1983. However, in order to  
16 seek relief under section 1983, “a plaintiff must assert the violation of a federal  
17 *right*, not merely a violation of federal *law*.” *Blessing v. Freestone*, 520 U.S. 329,  
18 340 (1997) (emphasis in original). To determine whether a federal statute confers  
19 a federal right that may be enforced through section 1983, the court considers three  
20 factors. First, Congress must have intended the law to benefit the plaintiff. *Id.*  
21 Second, the right must not be so “vague and amorphous” that its enforcement

1 would strain judicial competence. *Id.* at 340–41. Third, the statute must impose a  
2 binding obligation on the states couched in mandatory, rather than precatory,  
3 language. *Id.*

4       When the statutory provision in question is enacted pursuant to Congress’s  
5 spending power, the provision provides no basis for section 1983 enforcement  
6 unless Congress speaks with a clear voice and manifests an unambiguous intent to  
7 confer individual rights. *Gonzaga Univ. v. Doe*, 536 U.S. 273, 280 (2002). “In  
8 legislation enacted pursuant to the spending power, the typical remedy for state  
9 noncompliance with federally imposed conditions is not a private cause of action  
10 for noncompliance but rather action by the Federal Government to terminate funds  
11 to the State.” *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 28 (1981).  
12 Because the FNHRA was enacted pursuant to Congress’s spending power, the  
13 ultimate question for the Court is whether Congress spoke with a clear voice and  
14 manifested an unambiguous intent to create an individual right. *Gonzaga*, 536  
15 U.S. at 280. If Plaintiff establishes the existence of the individual right, it is  
16 presumptively enforceable through section 1983.<sup>4</sup> *Id.* at 283–84.

---

17  
18  
19 <sup>4</sup> The parties dispute whether Ms. Shanklin was asserting a private right of action  
20 or enforcing the statute through section 1983. ECF No. 15 at 8; ECF No. 21 at 17.  
21 Because Ms. Shanklin asserts that Defendants were acting under color of state law,  
ECF No. 1 at 11, Ms. Shanklin’s claim is a section 1983 claim. However, as the  
Supreme Court noted in *Gonzaga*, the individual rights analysis for a claim through  
section 1983 and a private right of action is the same. *Gonzaga*, 536 U.S. at 290. .



1            *Intent to Benefit the Plaintiff*

2            For a statute to create an enforceable right, the text must be “phrased in  
3 terms of the persons benefited.” *Cannon v. Univ. of Chi.*, 441 U.S. 677, 693 n.13  
4 (1979). Statutes that have an “aggregate” focus and are “not concerned with  
5 whether the needs of any particular person have been satisfied” do not create  
6 individual rights. *Gonzaga*, 536 U.S. at 288 (internal citations and quotations  
7 omitted). In *Gonzaga*, the Supreme Court held that the language “[n]o person . . .  
8 shall . . . be subject to discrimination” is the type of “individually focused  
9 terminology” that creates an enforceable federal right. *Id.* at 287.

10           Ms. Shanklin argues that Defendants violated several subsections of 42  
11 U.S.C. § 1396r(b). “A nursing facility must care for its residents in such a manner  
12 and in such an environment as will promote maintenance or enhancement of the  
13 quality of life of each resident.” 42 U.S.C. § 1396r(b)(1)(A). “A nursing facility  
14 must provide services and activities to attain or maintain the highest practicable  
15 physical, mental, and psychosocial well-being of each resident in accordance with  
16 a written plan of care which-- (A) describes the medical, nursing and psychosocial  
17 needs of the rest and how such needs will be met; . . . and (C) is periodically  
18 reviewed and revised by such team after each assessment under paragraph (3).” 42  
19 U.S.C. § 1396r(b)(2)(A) and (C). “A nursing facility must conduct a  
20 comprehensive, accurate, standardized, reproducible assessment of each resident’s  
21 functional capacity.” 42 U.S.C. § 1396r(b)(3)(A). “The results of such an

1 assessment shall be used in developing, reviewing, and revising the resident’s plan  
2 of care under paragraph (2).” 42 U.S.C. § 1396r(b)(3)(D). “To the extent needed  
3 to fulfill all plans of care described in paragraph (2), a nursing facility must  
4 provide (or arrange for the provision of)-- . . . (ii) medically-related social services  
5 to attain or maintain the highest practicable physical, mental, and psychosocial  
6 well-being of each resident; . . . (v) an on-going program, directed by a qualified  
7 professional, of activities designed to meet the interest and the physical, mental,  
8 and psychosocial well-being of each resident.” 42 U.S.C. § 1396r(b)(4)(A)(ii) and  
9 (v).

10 District and circuit courts are split as to whether this language in section  
11 1396r(b) is phrased with an intent to benefit the nursing facility residents. The  
12 courts that have held that section 1396r(b) creates enforceable rights have found  
13 that the “provisions are obviously intended to benefit Medicaid beneficiaries and  
14 nursing home residents, not the nursing home themselves.” *Grammer v. John J.*  
15 *Kane Reg’l Ctrs.-Glen Hazel*, 570 F.3d 520, 527 (3d Cir. 2009). Even though the  
16 subjects of the phrases themselves are nursing facilities, several courts have held  
17 that the provisions of section 1396r(b) are “obviously intended to benefit Medicaid  
18 beneficiaries.” *Concourse Rehab. & Nursing Ctr. Inc. v. Whalen*, 249 F.3d 136,  
19 144 (2d Cir. 2001).

20 Other courts have held that the language of section 1396r(b) “is exactly the  
21 sort of broad aggregate or systemwide policy and practice statement” that does not

1 intentionally benefit nursing home residents or receivers of Medicaid. *Sanguinetti*  
2 *v. Avalon Health Care, Inc.*, No. 1:12-CV-0038 AWI SKO, 2012 WL 2521536, at  
3 \*5 (E.D. Cal. June 28, 2012) (quotations omitted). According to these courts, the  
4 directives in section 1396r “are intended to direct the efforts of the facilities” rather  
5 than conferring “a right on patients that can be vindicated by way [of] section  
6 1983.” *Id.* Applying *Gonzaga* and *Blessing* to section 1396r(b), some courts have  
7 found that section 1396r(b) focuses on the persons regulated (nursing facilities)  
8 rather than the persons benefited (nursing facility residents) and, thus, is  
9 unenforceable through section 1983. *Hawkins v. Cty. of Bent, Colo.*, 800 F. Supp.  
10 2d 1162, 1167 (D. Colo. 2011).

11         The section 1396r(b) provisions that Ms. Shanklin is attempting to enforce  
12 in this case are all phrased in terms of what the nursing facilities must do, rather  
13 than the protections that the patients must receive. 42 U.S.C. § 1396r(b). Because  
14 the nursing facilities are the subjects of the provisions in question, the provisions  
15 are not “phrased in terms of the persons benefited” and do not afford individual  
16 rights to nursing facility patients. *Cannon*, 441 U.S. at 693 n.13. While the  
17 provisions mention the nursing facility residents and the benefits that they should  
18 receive from the nursing facilities, such as the “maintenance or enhancement of the  
19 quality of life of each resident,” the facilities’ placement as the subject of the  
20 provisions, along with the fact that the FNHRA was passed under Congress’s  
21

1 spending power, show that Congress did not intend to confer individual rights with  
2 the FNHRA’s language.

3 Ms. Shanklin argues that this Court should follow the reasoning from  
4 *Rolland* and *Dunakin*. ECF No. 21 at 21–28. In *Rolland*, the First Circuit held that  
5 several provisions of the FNHRA created individual rights enforceable through  
6 section 1983, including provisions under sections 1396r(b), 1396r(c), and 1396r(e).  
7 *Rolland v. Romney*, 318 F.3d 42, 53 (1st Cir. 2003). In *Dunakin*, the Western  
8 District of Washington held that certain provisions under section 1396r(e) were  
9 enforceable through section 1983. *Dunakin v. Quigley*, 99 F. Supp. 3d 1297, 1316  
10 (W.D. Wash. 2015). However, these two cases differ from this case because the  
11 courts mainly analyzed section 1396r(e) as opposed to 1396r(b). *Rolland*, 318  
12 F.3d at 53; *Dunakin*, 99 F. Supp. 3d at 1316; *see also Blessing*, 520 U.S. at 342  
13 (holding that courts should focus their private rights analysis on “specific statutory  
14 provision[s]”). To any extent that these cases found that section 1396r(b) confers  
15 enforceable individual rights, the Court rejects their analyses.

16 Ms. Shanklin also urges this Court to adopt the reasoning of the *Grammer*  
17 court. ECF No. 21 at 22. In *Grammer*, the Third Circuit held that section  
18 1396r(b), and the entire FNHRA, is “replete with rights-creating language,” and is  
19 thus enforceable through section 1983. *Grammer*, 570 F.3d at 529. However, the  
20 *Grammer* Court stated that it was “not concerned that the provisions . . . are  
21 phrased in terms of responsibilities imposed on the state or the nursing home.” *Id.*

1 at 530. The *Grammer* holding is inconsistent with the Supreme Court’s holding in  
2 *Gonzaga*, and previously in *Cannon*, that a statute creating enforceable rights  
3 “must be phrased in terms of the persons benefited.” *Gonzaga*, 536 U.S. at 274  
4 (citing *Cannon*, 441 U.S. at 692 n.13). While the residents are certainly benefited  
5 by the FNHRA, those benefits or interests are not enforceable through section 1983  
6 because the statute is not phrased with an intent to benefit the residents. *Id.* (“[I]t  
7 is *rights*, not the broader or vaguer ‘benefits’ or ‘interests,’ that may be enforced.”  
8 (emphasis in original)). The language of section 1396r(b) does not satisfy the first  
9 *Blessing* factor. Therefore, the Court declines to follow *Grammer*.

#### 10 ***Clear and Definite Right***

11 The second *Blessing* factor is that the right protected by the statute is “not so  
12 vague and amorphous that its enforcement would strain judicial competence.”  
13 *Blessing*, 520 U.S. at 340–41. Courts that have found an enforceable right under  
14 section 1396r(b) have said that the rights are “clearly delineated by the provisions”  
15 because “[t]he repeated use of the phrases ‘must provide,’ ‘must maintain’ and  
16 ‘must conduct’ are not unduly vague or amorphous such that the judiciary cannot  
17 enforce the statutory provisions.” *Grammer*, 570 F.3d at 528. Courts that have not  
18 found an enforceable right in the FNHRA have held that its provisions refer only to  
19 “generalized, vague, amorphous quality-of-life interests that are insufficiently  
20 definite to be justiciable.” *Kalan v. Health Ctr. Comm’n of Orange Cty., Va.*, 198  
21 F. Supp. 3d 636, 645 (W.D. Va. 2016).

1           It is unclear how Ms. Shanklin’s FNHRA claim would be proven or  
2           disproven if this case were to proceed to trial. For example, under one provision  
3           that Ms. Shanklin wishes to enforce, a nursing facility must “promote maintenance  
4           or enhancement of the quality of life of each resident.” 42 U.S.C. §  
5           1396r(b)(1)(A). Under another provision, a nursing facility must provide  
6           “medically-related social services to attain or maintain the highest practicable  
7           physical, mental, and psychosocial well-being of each resident.” 42 U.S.C. §  
8           1396r(b)(4)(A)(ii). Enforcing these provisions would strain judicial competence,  
9           as it is unclear what standards the Court would use to evaluate whether Defendants  
10          violated Mr. Shanklin’s right to “quality of life” or “the highest practicable  
11          physical, mental, and psychosocial well-being.” The provisions that Ms. Shanklin  
12          wants to enforce are filled with subjective language without clear standards for the  
13          Court or the jury to evaluate in a potential trial.

14          The *Grammer* court found that the second *Blessing* factor was met because  
15          of the “repeated use of the phrases ‘must provide,’ ‘must maintain’ and ‘must  
16          conduct’” throughout the statute. *Grammer*, 570 F.3d at 528. But this analysis is  
17          more appropriate in the third *Blessing* factor, which asks whether the statute  
18          unambiguously binds the states. *Blessing*, 520 U.S. at 341.

19          Even if the FNHRA included rights-creating language that intended to  
20          benefit nursing facility residents like Mr. Shanklin, the Court finds that those rights  
21          are too vague or amorphous to be enforced through section 1983 litigation. The

1 Court finds that section 1396r(b) does not pass the *Blessing* test’s first or second  
2 elements. The Court finds that section 1396r(b) is not enforceable through section  
3 1983, and therefore is not a claim upon which relief can be granted. The Court  
4 dismisses Ms. Shanklin’s FNHRA claim with prejudice.

### 5 *State Law Claims*

6 Defendants argue that the Court should dismiss the state law claims upon  
7 dismissal of the FNHRA claim as a matter of discretion. ECF No. 15 at 17; 28  
8 U.S.C. § 1367(c). Ms. Shanklin’s other claims are all state law claims over which  
9 the Court would have to exercise supplemental jurisdiction. ECF No. 1 at 11–14.  
10 Ms. Shanklin wants the Court to maintain supplemental jurisdiction over her state  
11 law claims. ECF No. 21 at 31.

12 A district court has supplemental jurisdiction over claims that “form part of  
13 the same case or controversy” of claims over which a district court has original  
14 jurisdiction. 28 U.S.C. § 1367(a). However, if a district court dismisses all claims  
15 over which it has original jurisdiction, the court “may decline to exercise  
16 supplemental jurisdiction” over the remaining claims. 28 U.S.C. § 1367(c)(3). If all  
17 original jurisdiction claims are dismissed before trial, it is common practice to  
18 decline to exercise jurisdiction over any remaining state law claims. *See Acri v.*  
19 *Varian Assocs., Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997).

20 Because the Court no longer has original jurisdiction over Ms. Shanklin’s  
21 claims, the Court finds no basis to exercise supplemental jurisdiction over her

1 remaining state law claims. *See* 28 U.S.C. § 1367(c)(3); *Acri*, 114 F.3d at 1001.

2 Therefore, Ms. Shanklin's state law claims are dismissed without prejudice for lack  
3 of subject matter jurisdiction.

4 Accordingly, **IT IS HEREBY ORDERED:**

5 1. Defendants' Motion to Dismiss, **ECF No. 15**, is **GRANTED**.

6 2. Plaintiff's 42 U.S.C. § 1983 claim under the Federal Nursing Home  
7 Reform Amendments, 42 U.S.C. § 1396 *et seq.*, is **DISMISSED with prejudice**.

8 3. Plaintiff's state law claims are **DISMISSED without prejudice**.

9 4. All pending motions are **DENIED as moot**. All pending hearing dates  
10 are stricken.

11 5. Judgment shall be entered in favor of Defendants.

12 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this  
13 Order, provide copies to counsel, and **close this case**.

14 **DATED** April 15, 2019.

15  
16 *s/ Rosanna Malouf Peterson*  
17 ROSANNA MALOUF PETERSON  
18 United States District Judge  
19  
20  
21