

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No. CV 11-8418 PSG (MRWx) Date February 27, 2012

Title Alexander Stern v. The Regents of the University of California, et al.

Present: The Honorable Philip S. Gutierrez, United States District Judge

Wendy K. Hernandez

Not Present

n/a

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

Proceedings: (In Chambers) Order DENYING Motion to Dismiss

Before the Court is Defendants' motion to dismiss. Dkt. # 5. The Court finds the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78; L.R. 7-15. The motion to dismiss is DENIED.

Plaintiff filed the Complaint on October 12, 2011. *See* Dkt. # 1. Plaintiff served Defendants Camilla Fiorina, Gary White, Jon Snyder, Valentina Padula, and Wanda Thomas ("Individual Defendants") on October 13, 2011. *See* Dkts. # 8-12. Defendant Regents of the University of California (the "Regents") were served on October 18, 2011. *See* Dkt. # 13. Defendants were required to serve a responsive pleading 21 days after being served with the Complaint. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). Thus, the last day to file a responsive pleading for the Individual Defendants was November 3, 2011 and November 8, 2011 for the Regents.

Under Local Rule 7-3, Defendants were required to meet and confer with Plaintiff to thoroughly discuss the substance of the motion to dismiss. For a motion to dismiss, the meet and confer "shall take place at least five (5) days prior to the last day for filing the motion." *See* L.R. 7-3. Defendants' Counsel declares he sent an email in an attempt to meet and confer on November 1, 2011. *Miller Decl.* ¶ 4. The email attached to Counsel's Declaration shows it was sent at 5:29 p.m. *Miller Decl.*, Ex. C.

Defendants failed to comply with the Local Rules. Defendants' Counsel sent his email only two days before the last day for the Individual Defendants to file a motion to dismiss and five days before the last day for the Regents to file a motion to dismiss. In the case of the

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Individual Defendants, even if the email could satisfy the requirement to meet and confer, the email was three days late under the Local Rules. In the case of the Regents, sending an email at 5:29 p.m. on the last possible day to meet and confer does not satisfy the requirement that the meet and confer shall occur on that day and that the substance of the motion be thoroughly discussed.

The meet and confer requirements of Local Rule 7-3 are in place for a reason, and nothing short of strict compliance with the local rules will be expected. Thus, the motion is DENIED for failure to comply with Local Rule 7-3. *See Superbalife Int'l v. Powepay*, No. CV 08-5099, 2008 WL 4559752, at *2 (C.D. Cal. Oct. 7, 2008) (“[A]bsent any evidence that a party attempted to meet and confer in good faith, this Court is unwilling to excuse noncompliance with the Local Rules Failure to do so, at least in this instance, is inexcusable.”). Finally, the Court notes that the issues raised in the motion to dismiss are exactly the type of issues capable of out-of-court Rule 7-3 resolution.

IT IS SO ORDERED.