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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 John Edwards,

10 Plaintiff,

11 v.

12 Vemma Nutrition, et al.,

13 Defendants.  
14

No. CV-17-02133-PHX-DWL

**ORDER**

15 On May 20, 2019, the Court issued an order granting the motions to dismiss filed  
16 by most of the defendants in this case and ordering Plaintiff to submit a memorandum  
17 addressing why the claims in the second amended complaint (“SAC”) shouldn’t be  
18 dismissed against the remaining two defendants, Vemma Vitamins Pty. Limited (“Vemma  
19 Vitamins”) and Tarak Mehta (“Mehta”), for lack of service and lack of personal  
20 jurisdiction. (Doc. 148.)

21 On June 17, 2019, Plaintiff filed a responsive memorandum. (Doc. 155.) In it,  
22 Plaintiff doesn’t address the status of Vemma Vitamins. As for Mehta, Plaintiff contends  
23 he shouldn’t be dismissed because Mehta filed an answer in February 2018 that “does not  
24 expressly appear to raise lack of personal jurisdiction or insufficient service of process.”  
25 (*Id.* at 3.)

26 The Court disagrees. In his admittedly unusual February 2018 response (Doc. 64)  
27 to the first amended complaint (“FAC”), Mehta explicitly raised lack of personal  
28 jurisdiction and insufficient service of process. As to service, Mehta repeatedly asserted

1 that Plaintiff served the summons “upon a wrong person and on a wrong company, at a  
2 wrong address” and asked the Court “to direct Plaintiff to recall the summon,  
3 unconditionally, as sent by the Plaintiff to the wrong person at the wrong address.” (Doc.  
4 64 ¶¶ 1, 25.) As to personal jurisdiction, Mehta argued that the “District Court can never  
5 have any personal jurisdiction over your Petitioner who is not the specific Defendant.” (*Id.*  
6 ¶ 18.) Moreover, Mehta “specifically and particularly denie[d] each and every point of  
7 allegations contained in” the FAC. (*Id.* ¶ 2.) This denial encompassed the four allegations  
8 in the FAC pertaining to Mehta (none of which, separately or together, establish personal  
9 jurisdiction). (Doc. 13 ¶¶ 7, 31, 32, 55.) The Court further notes that the “Jurisdiction and  
10 Venue” section of the FAC didn’t even mention Mehta<sup>1</sup>—it only alleged that personal  
11 jurisdiction existed over certain other defendants. (*Id.* ¶¶ 9-13.) This is a basic pleading  
12 deficiency. *See* Fed. R. Civ. P. 8(a)(1) (“A pleading that states a claim for relief must  
13 contain . . . a short and plain statement of the grounds for the court’s jurisdiction, unless  
14 the court already has jurisdiction and the claim needs no new jurisdictional support.”). This  
15 basic pleading deficiency was not rectified in the SAC, which also fails to mention Mehta  
16 in the “Jurisdiction and Venue” section. (Doc. 103 at ¶¶ 11-19.) Thus, the Court finds that  
17 Mehta’s February 2018 response did not waive challenges to personal jurisdiction or  
18 inadequate service.<sup>2</sup>

19 For these reasons, the Court concludes that the analysis contained in its May 20,  
20 2019 Order (Doc. 148) compels the conclusion that Mehta should be dismissed for lack of  
21 personal jurisdiction.<sup>3</sup> And because Plaintiff didn’t even attempt to address the status of  
22 Vemma Vitamins, the Court concludes that Vemma Vitamins should be dismissed for lack  
23 of personal jurisdiction and for failure to serve, for the reasons explained in the Court’s  
24 May 20, 2019 Order.

25 Accordingly, **IT IS ORDERED** that:

26  
27 <sup>1</sup> Another Defendant, *Haresh* Mehta, was mentioned, but *Tarak* Mehta was not.

28 <sup>2</sup> Indeed, far from *waiving* these challenges, Mehta’s response (which was docketed  
as an “answer”) could fairly be construed as a motion to dismiss *asserting* these challenges.

<sup>3</sup> It is unnecessary for the Court to determine the disputed issue of whether *Tarak*  
Mehta was properly served.

1 (1) Defendants Vemma Vitamins Pty. Limited and Tarak Mehta are **dismissed**  
2 **without leave to amend;**


3 (2) The Clerk of Court shall enter judgment accordingly;

4 (3) Any defendant wishing to file a motion for attorneys' fees must do so within  
5 14 days of entry of judgment; and

6 (4) All motions for an award of attorneys' fees shall be accompanied by an  
7 electronic Microsoft Excel spreadsheet, to be emailed to the Court and opposing counsel,  
8 containing an itemized statement of legal services with all information required by Local  
9 Rule 54.2(e)(1). This spreadsheet shall be organized with rows and columns and shall  
10 automatically total the amount of fees requested to enable the Court to efficiently review  
11 and recompute, if needed, the total amount of any award after disallowing any individual  
12 billing entries. This spreadsheet does not relieve the moving party of its burden under  
13 Local Rule 54.2(d) to attach all necessary supporting documentation to its motion. A party  
14 opposing a motion for attorneys' fees shall email to the Court and opposing counsel a copy  
15 of the moving party's spreadsheet, adding any objections to each contested billing entry  
16 (next to each row, in an additional column) to enable the Court to efficiently review the  
17 objections. This spreadsheet does not relieve the non-moving party of the requirements of  
18 Local Rule 54.2(f) concerning its responsive memorandum.

19 Dated this 18th day of June, 2019.

20  
21 Cc: Manas Mukherjee  
22 Alipore Judges' Court  
23 Bar Library Room No. 4  
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25 Kolkata 700 027  
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Dominic W. Lanza  
United States District Judge