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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KRISTI LAURIS, et. al.,
Plaintiffs,
v.
NOVARTIS AG, et al.,
Defendants.

Case No. 1:16-cv-00393-LJO-SAB
ORDER DENYING MAY 13, 2016 MOTION
TO DISMISS AS MOOT AND VACATING
JUNE 22, 2016 HEARING
ECF No. 18

On March 22, 2016, Plaintiffs filed a complaint in this action. (ECF No. 1.) On May 13, 2016, Defendant Novartis Pharmaceuticals Corporation (“Defendant NPC”) filed a motion to dismiss. (ECF No. 18.) On May 17, 2016, Chief Judge Lawrence J. O’Neill referred the motion to dismiss to the undersigned for issuance of findings and recommendations. (ECF No. 22.) On May 18, 2016, the Court reset the hearing on Defendant NPC’s motion to dismiss for June 22, 2016, at 3:00 p.m. in Courtroom 9 before the undersigned. (ECF No. 24.)

On June 3, 2016, Plaintiffs filed a first amended complaint. (ECF No. 28.) Federal Rule of Civil Procedure 15(a)(1) permits a party to amend a “pleading once as a matter of course within: . . . (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. Pro. 15(a)(1)(B). Here, Defendant NPC did not file an answer, but filed a motion to dismiss on May 13, 2016. As Plaintiffs filed their first amended

1 complaint within twenty-one days after service of Defendant NPC's motion to dismiss under
2 Rule 12(b), Plaintiffs were entitled to file their first amended complaint as a matter of course
3 under Rule 15(a)(1)(B).

4 Accordingly, NPC's May 13, 2016 motion to dismiss is rendered moot in light of
5 Plaintiffs' first amended complaint. To the extent that the arguments raised in the motion to
6 dismiss have applicability to the first amended complaint, Defendant NPC may raise those
7 arguments in a subsequent motion to dismiss.

8 Based upon the foregoing, it is HEREBY ORDERED that:

- 9 1. The June 22, 2016 hearing is VACATED; and
- 10 2. Defendant NPC's May 13, 2016 motion to dismiss is DENIED as moot.

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13 IT IS SO ORDERED.

14 Dated: June 10, 2016


UNITED STATES MAGISTRATE JUDGE

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