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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

REBECCA M. AYALA,  
Plaintiff,  
v.  
FRITO LAY, INC.,  
Defendant.

No. 1:16-cv-01705-DAD-SKO

ORDER GRANTING IN PART  
STIPULATION REGARDING  
DEFENDANT’S PENDING MOTION TO  
DISMISS AND MOTION TO STRIKE  
CERTAIN ALLEGATIONS OF THE  
COMPLAINT

(Doc. No. 5)

Before the court is the parties’ stipulation regarding defendant Frito Lay, Inc.’s (“Frito Lay”) motion to dismiss and motion strike certain allegations of the complaint. (Doc. No. 5.) Having carefully reviewed the entire file and the parties’ stipulation, the court finds good cause to issue an order adopting the parties’ stipulation in part. The court notes that under the parties’ proposed stipulation, plaintiff Rebecca M. Ayala’s operative complaint in this case (*see* Doc. No. 1-5) shall be superseded by an amended complaint, filed either (a) on or before December 29, 2016, or (b) no later than twenty-one days after December 29, 2016. In either event, the court will not be required to reach the substance of defendant’s pending motions.

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Accordingly,

1. Plaintiff Ayala’s complaint is dismissed without prejudice;
2. Plaintiff is granted leave to file an amended complaint no later than January 19, 2017.  
Upon filing an amended complaint with the court, plaintiff shall serve such pleading on defendant Frito Lay, and may do so by email to its counsel of record;
3. Defendant may file and serve a responsive pleading within twenty-one days after being served with plaintiff’s amended complaint; and
4. Defendant’s motion to dismiss (Doc. No. 3) and motion to strike (Doc. No. 4) are denied as having been rendered moot by this order.

IT IS SO ORDERED.

Dated: December 7, 2016

  
UNITED STATES DISTRICT JUDGE