

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LOURDES A. ACASIO,
Plaintiff,

No. C 10-03003 WHA

v.

GUITTARD CHOCOLATE CO.,
WAREHOUSE UNION LOCAL 6, ILWU
Defendants.

**ORDER GRANTING REQUEST
TO WITHDRAW MOTION;
DENYING MOTION TO DISMISS
AS MOOT; AND VACATING
HEARING**

Defendants filed motions to dismiss the complaint in this action, and instead of filing an opposition to the motions, plaintiff filed a first amended complaint (Dkt. No. 36), as she is entitled to do. Rather than withdrawing their motions, defendants have filed two documents, one from each defendant. Defendant Warehouse Union Local 6, ILWU, filed a “statement of position” (Dkt. No. 37), requesting leave to withdraw its motion to dismiss the now-moot complaint. That request is **GRANTED**.

Defendant Guittard Chocolate Co. filed a “reply” in support of its motion to dismiss the now-moot complaint (Dkt. No. 38). It states that the first amended complaint “addresses Defendant’s 12(b)(6) issues,” but that defendant Guittard still seeks dismissal for insufficient service of process of the now-moot complaint. That motion is **DENIED AS MOOT**. Defendants

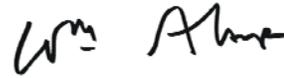
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

are both free to move to dismiss the operative complaint, the first amended complaint, if they so choose.

The hearing set for September 16, 2010, is **VACATED**.

IT IS SO ORDERED.

Dated: September 2, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE