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28IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTIN MEE, et al.,

No. C 14-5006 MMC

Plaintiffs,

**ORDER DENYING AS MOOT  
DEFENDANT'S MOTION TO DISMISS;  
VACATING HEARING; CONTINUING  
CASE MANAGEMENT CONFERENCE**

v.

I A NUTRITION, INC.,

Defendant.  

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Before the Court is defendant's "Motion to Dismiss Class Action Complaint Pursuant to Federal Rule of Civil Procedure § 12(b)(6)," filed January 30, 2015. On February 20, 2015, plaintiffs filed a First Amended Complaint ("FAC").

A party may amend a pleading "once as a matter of course within . . . 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." See Fed. R. Civ. P. 15(a). "[A]n amended pleading supersedes the original, the latter being treated thereafter as non-existent." Bullen v. De Bretteville, 239 F.2d 824, 833 (9th Cir. 1956), cert. denied, 353 U.S. 947 (1957).

In the instant case, plaintiffs filed their FAC within 21 days after service of defendant's motion to dismiss, and, consequently, were entitled to amend as of right. See Fed. R. Civ. P. 15(a).


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1           Accordingly, the Court hereby DENIES as moot defendant's motion, and VACATES  
2 the March 6, 2015, hearing scheduled thereon.

3           Further, in light of the recent amendment, the Court hereby CONTINUES the Case  
4 Management Conference from February 27, 2015, to May 8, 2015, at 10:30 a.m. A Joint  
5 Case Management Statement shall be filed no later than May 1, 2015.<sup>1</sup>

6           **IT IS SO ORDERED.**

7  
8 Dated: February 24, 2015

  
MAXINE M. CHESNEY  
United States District Judge

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26           <sup>1</sup>The Court notes that the parties violated the Court's Case Management Conference  
27 Order, filed November 20, 2014, by failing to either (1) file a Joint Case Management  
28 Statement no later than February 20, 2014, or (2) file a request to reschedule the February  
27, 2014 Case Management Conference. The parties are advised that future violations of  
the Court's orders may subject them to sanctions.