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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VICKI POPE, et al.,  
Plaintiffs,  
v.  
UNITED HEALTHCARE INSURANCE  
COMPANY,  
Defendant.

Case No. [15-cv-03617-MEJ](#)

**ORDER RE: MOTION TO DISMISS  
AND REQUEST TO FILE FIRST  
AMENDED COMPLAINT**

Re: Dkt. Nos. 5, 10

Pending before the Court is Defendant United Healthcare Insurance Company’s Motion to Dismiss, in which Defendant argues Plaintiffs Vicki and Gregory Pope’s Complaint must be dismissed for failure to state a claim based on ERISA preemption. Dkt. No. 5. Plaintiffs have filed a response in which they agree this case is governed by ERISA and requesting leave to file an amended complaint. Under Federal Rule of Civil Procedure 15, a party may amend its pleading once “as a matter of course” within “21 days after service of a motion under Rule 12(b), (e), or (f).” Fed. R. Civ. P. 15(a)(1)(B). Accordingly, the Court **GRANTS** Plaintiffs’ request. Plaintiffs shall e-file their First Amended Complaint by August 28, 2015 (no chambers copy is required). Defendant’s Motion to Dismiss is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

Dated: August 27, 2015

  
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MARIA-ELENA JAMES  
United States Magistrate Judge