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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

MARY SWEARINGEN and ROBERT FIGY, individually and on behalf of all others similarly situated, Plaintiffs, v. ATTUNE FOODS, INC., Defendant.	Case No: C 13-4541 SBA **ORDER DENYING MOTION TO DISMISS** Docket 15

On January 15, 2014, Defendant filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Dkt. 15. On January 29, 2014, Plaintiffs filed a first amended complaint. Dkt. 18. Under Rule 15 of the Federal Rules of Civil Procedure, a party may amend its pleading once as a matter of course within 21 days after service of a motion under Rule 12(b). Fed.R.Civ.P. 15(a)(1)(B).

Accordingly,

IT IS HEREBY ORDERED THAT:

1. Defendant's motion to dismiss the complaint is DENIED as MOOT.

2. This Order terminates Docket 15.

IT IS SO ORDERED.

Dated: 2/4/2014

SAUNDRA BROWN ARMSTRONG
United States District Judge

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