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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON
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8 RCB INTERNATIONAL, LTD.,

9 Plaintiffs,

10 v.

11 LABBEEMINT, INC.,

12 Defendants.
13

NO. 1:16-cv-03109-SAB

**ORDER RE
PENDING MOTIONS**

14 Before the Court are a surfeit of motions relating to Labbeemint's motion to
15 dismiss and RCB's attempts to conduct discovery. ECF Nos. 21, 24, 25, 28. These
16 motions include Labbeemint's 12(b)(6) Motion to Dismiss, ECF No. 21, Motion
17 for Protective Order Staying Discovery Until the Motion to Dismiss is Resolved,
18 ECF No. 25, and a Motion to Expedite the motion to stay discovery. ECF No. 24.
19 RCB has filed a Motion for Extension of Time to file a response to Labbeemint's
20 motion to dismiss. ECF No. 28.

21 On July 25, 2016, RCB filed a First Amended Complaint. ECF No. 31. The
22 First Amended Complaint supersedes RCB's original complaint and renders
23 Labbeemint's motion to dismiss moot. See *Ferdik v. Bonzelet*, 963 F.2d 1258,
24 1261 (9th Cir. 1992). With the Motion to Dismiss moot, the motion to stay
25 discovery until the resolution of the motion to dismiss, and its accompanying
26 motion to expedite, as well as RCB's motion for extension of time to respond to
27 the motion to dismiss, are all moot as well.
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ORDER RE PENDING MOTIONS # 1

1 In its reply in support of the motion for a protective order, Labbeemint
2 objects to RCB's amended complaint as untimely. ECF No. 32. RCB missed the
3 cut-off for amending the complaint as a matter of course by three days. However,
4 the Court grants leave for the untimely filing because it does not prejudice the
5 Defendant in this case.¹

6 Accordingly, **IT IS HEREBY ORDERED:**

- 7 1. Defendant's Motion to Dismiss, ECF No. 21, is **DENIED AS MOOT.**
- 8 2. Defendant's Motion to Expedite, ECF No. 24, is **DENIED AS MOOT.**
- 9 3. Defendant's Motion for Protective Order Staying Discovery Until the
10 Motion to Dismiss is Resolved, ECF No. 25, is **DENIED AS MOOT.**
- 11 4. Plaintiff's Motion for Extension of Time, ECF No. 28, is **DENIED AS**
12 **MOOT.**

13 **IT IS SO ORDERED.** The District Court Executive is hereby directed to file this
14 Order and provide copies to counsel.

15 **DATED** this 1st day of July 2016.



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A handwritten signature in blue ink that reads "Stanley A. Bastian".

21 Stanley A. Bastian
22 United States District Judge
23
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25 _____
26 ¹ Counsel for RCB would be well served to review the Federal Rules of Civil
27 Procedure, particularly Rule 15, which sets out rules for amending and
28 supplementing pleadings, and Rule 26(d), which states “[a] party may not seek
discovery from any source before the parties have conferred as required by Rule
26(f).”