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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT MARTIN, JESSICA GRAHAM, AND JENNIFER HYLE, on behalf of themselves and all others, similarly situated, PLAINTIFF(S), v. FRS COMPANY, OAK INVESTMENT PARTNERS, AND LANCE ARMSTRONG DEFENDANT(S).	CASE NUMBER: 2:13-cv-01456-BRO-MAN **NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that PLAINTIFF ROBERT MARTIN hereby appeals to
Name of Appellant
the United States Court of Appeals for the Ninth Circuit from:

Criminal Matter

☐ Conviction only [F.R.Cr.P. 32(j)(1)(A)]
☐ Conviction and Sentence
☐ Sentence Only (18 U.S.C. 3742)
☐ Pursuant to F.R.Cr.P. 32(j)(2)
☐ Interlocutory Appeals
☐ Sentence imposed:

☐ Bail status:

Civil Matter

☒ Order (specify):
granting defendants' motion to dismiss with prejudice, Docket # 53, which affirms the courts prior dismissal (Docket # 50)
☐ Judgment (specify):

☐ Other (specify):

Imposed or Filed on March 21, 2014. Entered on the docket in this action on March 21, 2014.

A copy of said judgment or order is attached hereto.

March 27, 2014
Date

/s/ Michael E. Berman
Signature
☐ Appellant/ProSe ☒ Counsel for Appellant ☐ Deputy Clerk

Note: The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

LINK:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	**CV 13-01456- BRO (MANx)**	Date	March 21, 2014
Title	**Robert Martin v. FRS Company et al**		

Present: The Honorable	**BEVERLY REID O'CONNELL, United States District Judge**	
Renee A. Fisher	Not Present	N/A
Deputy Clerk	Court Reporter	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
Not Present	Not Present	

Proceedings: (IN CHAMBERS)

ORDER RE DEFENDANT ARMSTRONG'S MOTION TO DISMISS OR IN ALTERNATIVE TO STRIKE[21]

DEFENDANT FRS'S MOTIONS TO DISMISS AND TO STRIKE [22, 25]

I. BACKGROUND

A. The Parties

This is a putative class action on behalf of a nationwide class. (FAC ¶ 1.) Jennifer Hyle, Jessica Graham, and Robert Martin are representative Class Members (collectively "Plaintiffs"). (FAC at 2.) The class time period ("Class Period") covers Defendant Armstrong's involvement with Defendant FRS from April 11, 2007 through October 17, 2012. (FAC ¶ 1.)

FRS Company ("Defendant FRS") is based in Torrance, California. (FAC ¶ 2.) It manufactures, sells, advertises, and markets energy and sports drinks, concentrates, chews, and powders ("FRS products") throughout the United States and abroad. (FAC ¶ 2.)

Lance Armstrong ("Defendant Armstrong") was a famous and idolized athlete, the winner of seven Tour de France titles before he admitted to using performance enhancing

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drugs. (FAC ¶ 3.) Plaintiffs allege that during the Class Period, Defendant Armstrong was an equity owner of Defendant FRS. (FAC ¶ 4.) Prior to his resignation, he served as both a member of the Board of Directors and an "FRS Ambassador." (FAC ¶ 4.) As a part of the management team, Defendant Armstrong participated in the formation and execution of Defendant FRS's marketing and advertising strategy. (FAC ¶ 4.)

B. Procedural History

On February 28, 2013, Plaintiffs filed a Class Action Complaint against Defendants Armstrong, FRS, and Oak Investment Partners.[1] (Dkt. No. 1.) On April 24, 2013, Plaintiffs filed a First Amended Complaint. (Dkt. No. 9.) On July 3, 2013, Defendant Armstrong filed a Motion to Dismiss pursuant to Federal Rules of Civil Procedure 8, 9(b), and 12(b)(6) or in the alternative to strike the class action allegations pursuant to 12(f). (Dkt. No. 21.) On July 3, 2013, Defendant FRS filed a Motion to Dismiss pursuant to Rules 12(b)(6) and 9(b) and a Motion to Strike the Class Action Allegations. (Dkt. Nos. 22, 25.) Because Plaintiffs filed an Omnibus Opposition to Defendants' Motions, the Court analyzed the Motions together. (Dkt. No. 41.) On February 25, 2014, the Court granted the Defendants' Armstrong and FRS' Motions to Dismiss. (Dkt. No. 50.)

II. DISCUSSION

The Court granted Defendants' Motions to Dismiss with leave to amend. Plaintiffs were instructed to file a Second Amended Complaint by March 18, 2014 or they would face dismissal with prejudice. Plaintiffs did not file a Second Amended Complaint. Instead, Plaintiffs filed a notice of appeal to the Ninth Circuit Court of Appeals. (Dkt. No. 51.)

Accordingly, the Court **GRANTS** Defendants' Motions to dismiss with prejudice. **IT IS SO ORDERED.**

[1] Defendant Oak Investment Partners was terminated on August 22, 2013.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNIFER HYLE, JESSICA GRAHAM, and ROBERT MARTIN, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

FRS COMPANY, OAK INVESTMENT PARTNERS, and LANCE ARMSTRONG

Defendants.

Case 2:13-cv-01456 BRO-MAN

REPRESENTATION STATEMENT PURSUANT TO LOCAL RULE 3.2

Pursuant to Local Rule 3.2, Counsel for Plaintiff/Appellant Robert Martin submits the following representation statement:

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Dated: Long Beach, New York
March 27, 2014

Michael E. Berman, P.C.

By: /s/ Michael E. Berman
Michael E. Berman, Esq.

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