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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

HAROLD MAPLE, individually and
on behalf of all others similarly
situated,

Plaintiff,

v.

COSTCO WHOLESALE CORP., et
al.,

Defendants.

NO: 4:12-CV-5166-RMP

ORDER DENYING DEFENDANTS'
MOTION TO AMEND JUDGMENT

BEFORE THE COURT is a “Motion to Amend the Judgment,” filed by Defendant Costco Wholesale Corporation (“Costco”), ECF No. 104. Defendant Niagara Bottling, LLC, joined the motion. ECF No. 105. The Court has considered the briefing and the file, and is fully informed.

Motions to amend judgment are subject to Civil Rule 59(e), which states that “[a] motion to alter or amend a judgment must be filed no later than 28 days after entry of the judgment.” The Ninth Circuit has stated that the district court

1 “enjoys considerable discretion” in granting or denying a Rule 59(e) motion
2 because the rule does not set forth specific grounds for a motion to alter or amend
3 the judgment. *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011)
4 (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1255 n.1 (9th Cir. 1999) (en banc)
5 (per curiam)). However, amending the judgment is “an extraordinary remedy
6 which should be used sparingly.” *Id.*

7 The Ninth Circuit has identified four basic grounds on which a Rule 59(e)
8 motion may be premised: “(1) if such motion is necessary to correct manifest
9 errors of law or fact upon which the judgment rests; (2) if such motion is necessary
10 to present newly discovered or previously unavailable evidence; (3) if such motion
11 is necessary to prevent manifest injustice; or (4) if the amendment is justified by an
12 intervening change in controlling law.” *Id.* (quoting *McDowell*, 197 F.3d at 1255
13 n.1). A Rule 59(e) motion may also be granted in other, unusual circumstances.
14 *Id.* (citing *McDowell*, 197 F.3d at 1255 n.1).

15 The Court concludes that Costco has not established any basis justifying
16 granting the Rule 59(e) motion and amending the judgment. Although the Court
17 had the discretion to dismiss Plaintiff’s Second Amended Complaint with
18 prejudice, it was not required to do so. *See, e.g., WPP Luxembourg Gamma Three*
19 *Sarl v. Spot Runner, Inc.*, 655 F.3d 1039, 1058-59 (9th Cir. 2011).

1 Accordingly, **IT IS HEREBY ORDERED** that Defendant Costco's Rule
2 59(e) Motion to Amend the Judgment, **ECF No. 104**, is **DENIED**.

3 The District Court Clerk is hereby directed to enter this Order and to provide
4 copies to counsel.

5 **DATED** this 7th day of January 2014.
6

7 s/ Rosanna Malouf Peterson
8 ROSANNA MALOUF PETERSON
9 Chief United States District Court Judge
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