

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

STEVEN HODGES, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

VITAMIN SHOPPE, INC.,

Defendant.

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Civil Action No. 13-3381 (SRC)

ORDER

CHESLER, District Judge

This matter having come before the Court upon the motion filed by Defendant Vitamin Shoppe, Inc. (“Defendant”) to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1), or alternatively pursuant to Federal Rule of Civil Procedure 12(b)(6) [docket entry 17]; and Plaintiff Steven Hodges (“Plaintiff”) having opposed the motion; and the Court having considered the papers filed by the parties; and the Court concluding that it may rule on the motion without oral argument, pursuant to Federal Rule of Civil Procedure 78; and for the reasons expressed in the Opinion filed herewith;

IT IS on this 15th day of January, 2014,

ORDERED that Defendant’s motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1), or alternatively pursuant to Federal Rule of Civil Procedure 12(b)(6) [docket entry 17] be and hereby is **GRANTED IN PART AND DENIED IN PART**; and it is further

ORDERED that insofar as the motion seeks to dismiss the Complaint for lack of Article III standing, it is **DENIED**; and it is further

ORDERED all claims pled in the Complaint are **DISMISSED WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 12(b)(6); and it is further

ORDERED that Plaintiff is granted leave to re-plead his claims to cure the deficiencies discussed in the Opinion filed herewith; and it is further

ORDERED that Plaintiff shall file an Amended Complaint within 30 days of the date of this Order.

s/Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge