

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH EBIN, YERUCHUM JENKINS, et al. :
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 Plaintiffs, :
 :
 -v- :
 :
 KANGADIS FOOD INC. d/b/a THE GOURMET :
 FACTORY, :
 :
 Defendant. :
-----X

13 Civ. 2311 (JSR) .



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JOSEPH EBIN, et al. :
 :
 Plaintiffs, :
 :
 -v- :
 :
 KANGADIS FAMILY MANAGEMENT, et al. :
 :
 Defendants. :
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14 Civ. 1324 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

In 13 Civ. 2311 (JSR), lead plaintiffs Joseph Ebin and Yeruchum Jenkins bring a consumer class action against defendant Kangadis Food Inc., doing business as The Gourmet Factory ("Kangadis"), asserting various causes of action related to Kangadis's alleged practice of selling containers of Capatriti-branded "100% Pure Olive Oil" that actually contain an industrially processed substance known as "olive-pomace oil" or "pomace."

After discovery in 13 Civ. 2311 (JSR) had been completed and a trial had been firmly set for September 3, 2014, defendant on June 9, 2014, informed the Court that on June 6, 2014, defendant had

filed for Chapter 11 Bankruptcy in the Eastern District of New York. Thus, pursuant to 11 U.S.C. § 362, an automatic stay applies to 13 Civ. 2311 (JSR) though, of course, plaintiffs may apply to the Bankruptcy Court to lift the stay, so that one of Kangadis's contingent liabilities can either be eliminated or reduced to a sum certain through the previously-scheduled trial.

The same underlying allegations are also the subject of a related case, 14 Civ. 1324 (JSR), which, however, names as defendants Kangadis Family Management, Aristidis Kangadis, Aromahdi Kangadis, and Themis Kangadis, none of which had filed for bankruptcy. On April 18, 2014, the Court dismissed that action without prejudice to its being re-filed since its allegations were, in effect, derivative of the first action. Under these circumstances, however, the Court now grants plaintiffs permission to re-file the related action immediately. If plaintiffs do so within two weeks hereof, the Court, after providing for whatever additional discovery and motions practice may be necessary, if any, will convene the trial of 14 Civ. 1324 (JSR) on September 3, 2014.

SO ORDERED.

Dated: New York, NY
June 10, 2014



JEB S. RAKOFF, U.S.D.J.