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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THAMAR SANTISTEBAN
CORTINA, *et al.*,

Plaintiff,

v.

GOYA FOODS, INC.,

Defendant.

) Case No. 14-cv-169-L(NLS)

) **ORDER DENYING MOTION FOR**
) **JUDGMENT ON THE**
) **PLEADINGS**

This putative class action arises from Plaintiff’s allegations that Defendant manufactured, advertised, and sold mislabeled beverages. Pending before the Court is Defendant’s motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12©. Plaintiffs filed an opposition and Defendant replied. For the reasons which follow, the motion is denied.

Defendant moves for a judgment in its favor on all causes of action seeking equitable relief. A motion for judgment on the pleadings under Rule 12(c) is “functionally identical” to a motion to dismiss for failure to state a claim under Rule 12(b)6). *Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1054 n.4

1 (9th Cir. 2011). Accordingly, the same legal standard applies. *Dworkin v. Hustler*
2 *Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989). Rule 12(b)(6) tests the sufficiency
3 of the complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). Dismissal is
4 warranted where the complaint lacks a cognizable legal theory. *Shroyer v. New Cingular*
5 *Wireless Serv., Inc.*, 622 F.3d 1035,1041 (9th Cir. 2010) (internal quotation marks and
6 citation omitted). Alternatively, a complaint may be dismissed where it presents a
7 cognizable legal theory, yet fails to plead essential facts under that theory. *Robertson v.*
8 *Dean Witter Reynolds, Inc.*, 749 F.2d 530, 534 (9th Cir. 1984); *see also Shroyer*, 622 F.3d
9 at 1041.

10 Defendant argues that Plaintiffs' equitable claims should be dismissed because
11 Plaintiffs alleged an adequate remedy at law. This argument, however, is not appropriate
12 on a pleading motion, such as a Rule 12(b)(6) or 12(c) motion, where the focus is on the
13 allegations in the complaint. Under Rule 8(d), a plaintiff is permitted to plead claims in
14 the alternative, even if the claims are inconsistent with each other. Therefore, even if
15 Plaintiffs potentially are not entitled receive both, equitable relief and damages if they
16 prevail in this action,¹ the Federal Rules allow them to plead claims for equitable relief
17 and damages in the same complaint.

18 For the foregoing reasons, Defendant's motion for judgment on the pleadings is
19 denied.

20 **IT IS SO ORDERED.**

21
22 DATED: March 4, 2016

23 
24 M. James Lorenz
25 United States District Court Judge
26
27

28 ¹ The Court does not express any opinion at this time whether Plaintiffs in fact can receive both legal and equitable remedies if they prevail.