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NOT FOR PUBLICATION
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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K. P. Gallagher,

) No. CV-08-1173-PHX-FJM

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Plaintiff,

) **ORDER**

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vs.

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Scottsdale Unified School District, et al.

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Defendants.

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The court has before it defendants’ motion to dismiss (doc 6), plaintiff’s response (doc. 13), and defendants’ reply (doc. 14).

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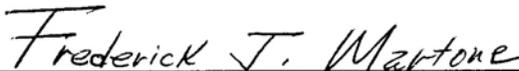
Defendants argue that plaintiff’s original complaint must be dismissed because it fails to comply with the minimal pleading requirements of Rule 8(a)(2), Fed. R. Civ. P., and because it is barred by the relevant statute of limitations. Plaintiff’s original complaint is strikingly vague. However, on July 16, 2008, after defendants’ filed their motion to dismiss, plaintiff filed an amended complaint. A party may amend its pleading once as a matter of course before a responsive pleading is served. Fed. R. Civ. P. 15(a)(1)(A). A motion to dismiss is not a responsive pleading. Allwaste, Inc. v. Hecht, 65 F.3d 1523, 1530 (9th Cir. 1995). Therefore, plaintiff had a right to amend her complaint without leave of the court. As a general rule, an amended complaint supercedes a prior complaint. Therefore,

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1 defendants' motion to dismiss is rendered moot because this action is now proceeding on
2 plaintiff's amended complaint.

3 **IT IS ORDERED DENYING** defendants' motion to dismiss as moot (doc. 6). This
4 order is without prejudice to defendants' right to move to dismiss plaintiff's amended
5 complaint.

6 DATED this 29th day of August, 2008.

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11 Frederick J. Martone
12 United States District Judge
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