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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

TED KEENER ERNST,	)	1:08-cv-01940 OWW GSA
	)	
Plaintiff,	)	
	)	ORDER RE DEFENDANT’S MOTION TO
v.	)	DISMISS (Docs. 5, 11 & 13)
	)	
MATTHEW CATE, et al.,	)	
	)	
Defendants.	)	

On January 30, 2009, Defendant Matthew Cate moved to dismiss Plaintiff’s complaint, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. The motion was amended on February 20, 2009, and again, on February 23, 2009. Rather than oppose the motions, Plaintiff filed a First Amended Complaint on April 7, 2009, pursuant to Federal Rules of Civil Procedure, rule 15(a). An amended complaint supercedes the original complaint, and this Court treats Plaintiff’s original complaint as withdrawn. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992).

Accordingly, this Court DENIES as moot Defendant’s motions to dismiss Plaintiff’s original complaint (Docs. 5, 11 & 13).

IT IS SO ORDERED.

Dated: April 14, 2009

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE