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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KNOWLEDGE HARDY,

Plaintiff,

vs.

INDYMAC Federal Bank, et al.,

Defendants.

CASE NO. CV F 09-935 LJO SMS

**ORDER ON DEFENDANTS' MOTIONS TO
DISMISS AND STRIKE** (Docs. 11, 12, 14)

By notice on July 9, 2009, defendants Americas Best Home Loans and Joe Gardella ("Mr. Gardella") (collectively "Americas Best") move to dismiss certain claims asserted by plaintiff Knowledge Hardy ("Mr. Hardy"), and to strike language in the complaint that refers to Mr. Hardy's prayer for recovery of attorneys' fees and punitive damages. In addition, defendant Mortgage Electronic Registration System, Inc. ("MERS") moved to dismiss Mr. Hardy's second, third, sixth, seventh, and ninth causes of action on July 13, 2009.

Mr. Hardy filed an amended complaint, pursuant to Fed. R. Civ. P. 15(a)(1), on July 24, 2009. An amended complaint supercedes a previous complaint rendering moot a motion to dismiss the original complaint. *See e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1991); *Bullen v. De Bretteville*, 239 F.2d 824, 833 (9th Cir. 1956) ("[A]n amended pleading supercedes the original, the latter being treated thereafter as non-existent."). Accordingly, this Court DISMISSES as moot Americas Best's motion to dismiss and motion to strike, DISMISSES as moot MERS' motion to dismiss, and VACATES the August 10 and August 13, 2009 hearings on these motions.

IT IS SO ORDERED.

Dated: July 27, 2009

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE