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

PRESTON HILL,

Plaintiff,

v.

CLOVIS POLICE DEPARTMENT,
MARK BRADFORD (Badge #5465),
individually and as an officer of the
Clovis Police Department, OFFICE OF
THE DISTRICT ATTORNEY FRESNO
COUNTY, ELIZABETH EGAN,
individually and as District Attorney, and
ELANA ARON SMITH individually and
as Deputy District Attorney,

Defendants.

1:11-cv-1391 AWI SMS

ORDER VACATING
DECEMBER 19, 2011
HEARING, AND ORDER ON
COUNTY DEFENDANTS'
MOTION TO DISMISS

(Doc. No. 12)

Currently set for hearing and decision on December 19, 2011, is the County of Fresno Defendants' motion to dismiss. On November 18, 2011, the Court granted the City of Clovis's motion to dismiss. See Doc. No. 25. As part of that motion, the Court gave Plaintiff leave to file an amended complaint against all Defendants. See id. On December 7, 2011, Plaintiff filed an amended complaint.

An "amended complaint supersedes the original, the latter being treated thereafter as non-existent." Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Here, the amended complaint supersedes the original complaint, and the

1 original complaint is treated as non-existent. Since the County Defendants' motion to dismiss
2 attacks Plaintiff's original and now "non-existent" complaint, Defendants' motion to dismiss is
3 now moot.

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5 Accordingly, IT IS HEREBY ORDERED that Defendants's motion to dismiss is
6 DENIED as moot and the December 19, 2011, hearing is VACATED.

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8 IT IS SO ORDERED.

9 Dated: December 8, 2011

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12 CHIEF UNITED STATES DISTRICT JUDGE
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