

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

SCOTT R. JAMES,

Plaintiff,

v.

KIMBERLY GRANGER,

Defendant.

1:13-CV-983 AWI SKO

ORDER VACATING
SEPTEMBER 30, 2013
HEARING AND ORDER ON
DEFENDANT'S MOTION TO
DISMISS

(Doc. No. 7)

Defendants filed a Rule 12(b)(6) Motion to Dismiss on August 30, 2013. On September 16, 2013, a stipulation for Plaintiff to file an amended complaint on or September 20, 2013, was signed. See Doc. No. 9. On September 20, 2013, Plaintiff filed an amended complaint. See Doc. No. 10.

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 first amended complaint supersedes the original complaint, and the original amended complaint is treated as non-existent. See id. Since Defendant's motion attacks Plaintiff's now "non-existent" original complaint, Defendant's motion to dismiss is moot.

Accordingly, IT IS HEREBY ORDERED that:

1. The September 30, 2013 hearing date is VACATED; and
2. Defendants's motion to dismiss (Doc. No. 7) is DENIED as moot.

IT IS SO ORDERED.

Dated: September 24, 2013



SENIOR DISTRICT JUDGE