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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Juana Silva,

Plaintiff,

v.

Ocwen Loan Servicing, LLC,

Defendant.

Case No. 1:17-cv-00645-AWI-MJS

**ORDER DENYING DEFENDANT’S MOTION
TO DISMISS AS MOOT AND GRANTING
STIPULATION TO CONTINUE HEARING
AND BRIEFING DATES RELATING TO
DEFENDANT’S MOTION TO STAY
PROCEEDINGS**

(Doc. Nos. 8, 9, 20)

On July 17, 2017, Plaintiff filed a First Amended Complaint as a matter of right – within 21 days of Defendant’s Motion to Dismiss pursuant to F.R.C.P 12(b)(6). See Fed. R. Civ. Proc. 15(a)(1)(B); Ramirez v. Cty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) (“The Defendants’ Rule 12(b)(6) and 12(e) motion was filed on May 22, 2013. Rule 15(a)(1)(B) allowed the Plaintiff to amend once within twenty-one days after service of that motion.”) Plaintiff’s First Amended Complaint rendered Defendant’s pending Motion to Dismiss the original complaint (Doc. No. 8) moot. See Ramirez, 806 F.3d at 1008 (“It is well-established in our circuit that an ‘amended complaint supersedes the original, the latter being treated thereafter as non-existent.’”) (citation omitted).

1 The parties have filed a joint stipulation (Doc. No. 20) to vacate and continue the hearing
2 currently scheduled for July 31, 2017 on Defendant's Motion to Stay Proceedings (Doc. No. 9)
3 pending ruling by the United States Court of Appeals for the D.C. Circuit in *ACA Int'l v. Federal*
4 *Comm'n*, No. 15-1211 (D.C. Cir.). Additionally, Defendant plans to file a Motion to Dismiss
5 Plaintiff's First Amended Complaint and the parties request that the Motion to Stay and the
6 Motion to Dismiss be heard by the Court at the same time.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Defendant's current motion to dismiss (Doc. No. 8) is DENIED as moot;
- 9 2. The July 31, 2017 hearing on the Motion to Stay (Doc. No. 9) is VACATED and will
10 be heard with Defendant's anticipated Motion to Dismiss Plaintiff's Amended
11 Complaint;
- 12 3. Defendant's anticipated Motion to Dismiss Plaintiff's Amended Complaint is due on
13 July 31, 2017; and
- 14 4. Defendant's reply brief in support of its Motion to Stay (Doc. No. 9) shall be filed
15 together with the reply in support of the anticipated Motion to Dismiss.

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17 IT IS SO ORDERED.

18 Dated: July 21, 2017

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SENIOR DISTRICT JUDGE