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

**THADDEUS JEAN,**

**Plaintiff**

**v.**

**SEDGWICK CLAIMS MANAGEMENT  
SERVICES,**

**Defendant**

**CASE NO. 1:17-CV-1161 AWI MJS**

**ORDER VACATING HEARING AND  
DENYING MOTION TO DISMISS AS  
MOOT**

(Doc. No. 7)

This action was removed from the Stanislaus County Superior Court on August 28, 2017. See Doc. No. 1. On September 1, 2017, Defendant filed a motion to dismiss. See Doc. No. 7. Hearing on this motion is set for September 25, 2017. On September 18, 2017, Plaintiff filed a first amended complaint. See Doc. No. 11.

Federal Rule of Civil Procedure 15 governs amended pleadings. In pertinent part, Rule 15(a) reads: “A party may amend its pleading once as a matter of course within . . . , if the pleading is one to which a responsive pleading is required, 21 days after service of the responsive pleading or 21 days after service of a motion under Rule 12(b) . . . .” Fed. R. Civ. P. 15(a)(1)(B). A properly filed “amended complaint supersedes the original [complaint], the latter being treated thereafter as non-existent.” Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015); Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967).

1 Here, Plaintiff's amended complaint is timely under Rule 15(a)(1)(B) since it was filed  
2 within 21 days of the motion to dismiss. Defendants' motion now attacks a complaint that is no  
3 longer operative. Ramirez, 806 F.3d at 1008. Therefore, the hearing on Defendants' motion to  
4 dismiss will be vacated and the motion will be denied as moot. Id.

5  
6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The September 25, 2017 hearing is VACATED;
- 8 2. Defendants' motion to dismiss (Doc. No. 7) is DENIED as MOOT; and
- 9 3. Defendants may file an answer or other responsive motion or pleading to the First  
10 Amended Complaint within twenty-one (21) days of service of this order.

11 IT IS SO ORDERED.

12 Dated: September 20, 2017

13   
14 SENIOR DISTRICT JUDGE