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4 **UNITED STATES DISTRICT COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
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7 **EDWINA DOTSON,**

8 **Plaintiff**

9 **v.**

10 **DARREL ADAMS, Warden at CCWF, et**
11 **al.,**

12 **Defendants**

CASE NO. 1:17-CV-1199 AWI BAM

ORDER ON MOTION TO DISMISS

(Doc. No. 14)

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15 Currently pending before the Court is Defendants' motion to dismiss Plaintiff's Complaint.
16 See Doc. No. 14. However, on October 30, 2018, pursuant to a stipulation between the parties that
17 was signed by the Magistrate Judge, see Doc. No. 19, Plaintiff filed a first amended complaint.
18 See Doc. No. 20.

19 Federal Rule of Civil Procedure 15 governs amended pleadings. In pertinent part, Rule 15
20 reads: "In all other cases, a party may amend its pleading only with the opposing party's written
21 consent or the court's leave. The court should freely give leave when justice so requires." Fed. R.
22 Civ. P. 15(a)(2). A properly filed "amended complaint supersedes the original [complaint], the
23 latter being treated thereafter as non-existent." Ramirez v. County of San Bernardino, 806 F.3d
24 1002, 1008 (9th Cir. 2015); Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). That is, "the original
25 pleading no longer performs any function." Ramirez, 806 F.3d at 1008.

26 Here, Plaintiff's amended complaint complies with Rule 15(a)(2). Therefore, Plaintiff's
27 first amended complaint is operative and the original complaint is "non-existent." Ramirez, 806
28 F.3d at 1008. Because Defendants' pending motion now attacks a complaint that is no longer

1 operative, the Court is required to deny the motion to dismiss as moot. See id. (“Because the
2 Defendants’ motion to dismiss targeted the Plaintiff’s First Amended Complaint, which was no
3 longer in effect, we conclude that the motion to dismiss should have been deemed moot before the
4 district court granted it.”).

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6 **ORDER**

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Defendants' motion to dismiss (Doc. No. 14) is DENIED as MOOT; and
9 2. Defendants may file an answer or other response to the First Amended Complaint
10 within twenty (20) days of service of this order.

11 IT IS SO ORDERED.

12 Dated: November 1, 2018

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14 SENIOR DISTRICT JUDGE