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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KATHRYN CROUCH, on behalf of  
herself and all others similarly situated,

Plaintiff,

v.

SAINT AGNES MEDICAL CENTER,

Defendant.

Case No. 1:22-cv-01527-ADA-EPG

FINDINGS AND RECOMMENDATIONS TO  
DENY DEFENDANT'S MOTION TO  
DISMISS AS MOOT

(ECF No. 5)

On November 23, 2022, Defendant removed this action, which alleges privacy and confidentiality violations under California law. (ECF No. 1). On December 28, 2022, Defendant filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). (ECF No. 5). On January 11, 2023, the presiding District Judge referred the motion to dismiss for the preparation of findings and recommendations or other appropriate action. (ECF No. 9). On January 18, 2023, Plaintiff filed a first amended complaint. (ECF No. 11).

As Plaintiff's amended complaint supersedes the original complaint, Defendant's motion to dismiss is moot. *See Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) ("Because the Defendants' motion to dismiss targeted the Plaintiff's First Amended Complaint, which was no longer in effect [after Plaintiff filed a Second Amended Complaint], we conclude that the motion to dismiss should have been deemed moot before the district court granted it.").

Accordingly, IT IS RECOMMENDED that Defendant's motion to dismiss (ECF No. 5) be denied as moot.

1           These findings and recommendations are submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)  
3 days after being served with these findings and recommendations, any party may file written  
4 objections with the Court. Such a document should be captioned “Objections to Magistrate  
5 Judge’s Findings and Recommendations.” Any reply to the objections shall be served and filed  
6 within fourteen (14) days after service of the objections. The parties are advised that failure to file  
7 objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v.*  
8 *Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394  
9 (9th Cir. 1991)).

10 IT IS SO ORDERED.

11 Dated: January 19, 2023

12 /s/ Eric P. Gray  
13 UNITED STATES MAGISTRATE JUDGE  
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