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

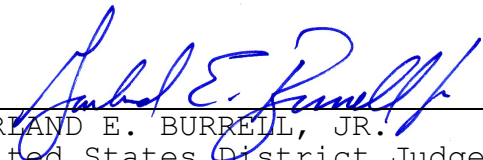
KANDY ANDERSON and DOUGLAS )  
ANDERSON, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
SELECT COMFORT RETAIL CORPORATION, )  
a Minnesota Corporation; and DOES )  
1 through 50, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

2:10-cv-0128-GEB-KJM  
ORDER DENYING DEFENDANT'S  
MOTION TO DISMISS AS MOOT

On January 22, 2010, defendant Select Comfort Retail Corporation filed a motion in which it seeks to dismiss plaintiffs' complaint. However, the parties jointly filed a Stipulation on February 19, 2010, in which they agreed to allow plaintiffs to file a first amended complaint. Plaintiffs filed a first amended complaint that same day. Further, an order filed February 23, 2010, approved the Stipulation; therefore, plaintiffs' first amended complaint is now the operative pleading. See Hal Roach Studios, Inc., v. Richard Feiner and Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1989) (stating an amended complaint supercedes the prior complaint). Since the pending

1 dismissal motion does not address the operative pleading, it is denied  
2 as moot.

3 Dated: March 3, 2010

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7 GARLAND E. BURRELL, JR.  
8 United States District Judge  
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