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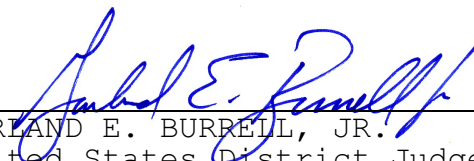
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH T. BOURQUIN,)	
)	2:10-cv-01802-GEB-KJM
Plaintiff,)	
)	<u>ORDER DENYING DEFENDANTS'</u>
v.)	<u>MOTION TO DISMISS AS MOOT</u>
)	
HOMEcomings FINANCIAL, LLC;)	
AURORA LOAN SERVICES, LLC;)	
DANIEL WILLIAM QUAID; GREGORY)	
EDWARD JACKSON; FREEWILL)	
FINANCIAL CORPORATION;)	
)	
Defendants.)	
_____)	

Defendants Aurora Loan Services, LLC and Mortgage Electronic Registration Systems, Inc. ("Defendants") filed a motion to dismiss Plaintiff's Complaint under Federal Rule of Civil Procedure 12(b)(6) ("Rule 12(b)(6)"), arguing Plaintiff failed to allege sufficient facts to state viable claims. However, Plaintiff timely filed a First Amended Complaint on August 16, 2010, which 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); see also Fed. R. Civ. P. 15(a)(1)(B) (stating that "[a] party may amend its pleading once as a matter of course within . . . 21 days after service of a motion under Rule 12(b)"). Since the pending

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

3 Dated: August 17, 2010

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