

1 service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),
2 whichever is earlier.”¹ Because plaintiff’s amended complaint was filed within 21 days of the
3 date he served his initial complaint (on December 6, 2010, *see* Dckt. No. 4) and within 21 days
4 of the date defendants served their motion to dismiss pursuant to Rule 12(b), plaintiff was
5 entitled to amend his complaint “as a matter of course.”

6 In light of plaintiff’s amended complaint, defendants’ motion to dismiss plaintiff’s
7 original complaint is denied as moot. The amended complaint supersedes the earlier complaint
8 which defendants have moved to dismiss, rendering the earlier complaint of no legal effect and
9 the motion to dismiss moot. *See Ramirez v. Silgan Containers*, 2007 WL 1241829, at *6 (Apr.
10 26, 2007).

11 Accordingly, it is HEREBY ORDERED that:

- 12 1. Defendants’ motion to dismiss, Dckt. No. 9, is denied as moot; and
- 13 2. The February 2, 2011 hearing on that motion is vacated.

14 DATED: December 29, 2010

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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25 ¹ The former version of Rule 15(a)(1) provided that “[a] party may amend its pleading
26 once as a matter of course: (A) before being served with a responsive pleading; or (B) within 20
days after serving the pleading if a responsive pleading is not allowed and the action is not yet on
the trial calendar.”