1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DONNELLE McCLAIN, No. 2:14-cv-1467-TLN-EFB PS Plaintiffs, 12 13 v. **ORDER** 14 MICHAEL PIROTTO, COUNTY OF SACRAMENTO, DOES 1-10, 15 Defendants. 16 17 On April 21, 2015, defendants moved to dismiss plaintiff's complaint for failure to state a 18 claim pursuant to Federal Rule of Civil ("Rule") 12(b)(6). ECF No. 13. Defendants noticed the 19 motion for hearing on May 27, 2015. *Id.* On April 29, 2015, plaintiff filed a first amended 20 complaint. 21 Rule 15 permits a party to amend its complaint once as a matter of course within 21 days 22 after service of a motion under Rule 12(b). Fed. R. Civ. P. 15(a)(1)(B). Here, plaintiff was 23 entitled to amend her complaint without leave of court because she filed her amended complaint 24 on April 29, 2015, less than 21 days after defendants moved to dismiss. Thus, plaintiff's first 25 amended complaint supersedes the original complaint, which defendants move to dismiss. The 26 amended complaint renders the original of no legal effect and the motion to dismiss as moot. See 27 Ramirez v. Silgan Containers, 2007 WL 1241829, at *6 (Apr. 26, 2007). 28 1

Accordingly, IT IS HEREBY ORDERED that: 1. This action will proceed on plaintiff's first amended complaint, ECF No. 15. 2. Defendants' motion to dismiss, ECF Nos. 13, is denied as moot and the May 27, 2015 hearing thereon is vacated. 3. Defendants shall file a response to plaintiff's amended complaint within the time prescribed in the Federal Rules of Civil Procedure. DATED: May 7, 2015. EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE