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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NARENDRA SHARMA, assignee of  
Shree Shiva LLC.,

Plaintiff,

v.

CITY OF REDDING, a municipal  
corporation,

Defendant.

No. 2:17-cv-0487 MCE AC PS

ORDER

Plaintiff is proceeding in this action pro se. This proceeding was referred to this court by Local Rule 302(c)(21). Before the court are defendant’s amended motion to dismiss plaintiff’s initial complaint (ECF No. 24) and defendant’s amended motion to strike portions of plaintiff’s initial complaint (ECF No. 25). For the reasons discussed below, the court vacates defendant’s amended motion to dismiss and amended motion to strike as moot.

I. PROCEDURAL BACKGROUND

On March 6, 2017, plaintiff filled an initial complaint against defendant. ECF No. 1. On April 20, 2017, defendant filed a motion to dismiss (ECF No. 15) and motion to strike (ECF No. 14) that was incorrectly noticed before District Judge Morrison C. England Jr. pursuant to Local Rule 230(a). On April 27, 2017, defendant re-noticed its amended motion to dismiss and

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1 amended motion to strike before the undersigned. See ECF Nos. 24, 25. On May 17, 2017,  
2 plaintiff filed her first amended complaint. ECF No. 27.

## 3 II. LEGAL STANDARD

4 Federal Rule of Civil Procedure 15 governs amended pleadings. In pertinent part, Rule  
5 15(a) reads: “A party may amend its pleading once as a matter of course within ..., if the pleading  
6 is one to which a response pleading is required, 21 days after service of the responsive pleading  
7 or 21 days after service of a motion under Rule 12(b)...or (f), whichever is earlier.” Fed. R. Civ.  
8 P. 15(a)(1)(B). A properly filed “amended complaint supersedes the original [complaint], the  
9 latter being treated thereafter as non-existent.” Forsyth v. Humana, Inc., 114 F.3d 1467, 1474  
10 (9th Cir.1997); Loux v. Rhay, 375 F.2d 55, 57 (9th Cir.1967).

## 11 III. ANALYSIS

12 The court finds that defendant’s amended motion to dismiss and amended motion to strike  
13 are moot, as plaintiff’s initial complaint has been superseded by her first amended complaint.  
14 Defendant filed his amended motion to dismiss and amended motion to strike plaintiff’s initial  
15 complaint on April 27, 2017. ECF Nos. 24, 25. Plaintiff filed his first amended complaint on  
16 May 17, 2017, ECF No. 27, well within the twenty-one (21) day period allowed after service of a  
17 motion under Rule 12(b) and 12(f). Fed. R. Civ. P. 15(a). Accordingly, plaintiff’s initial  
18 complaint has been superseded by his first amended complaint and the court will vacate  
19 defendant’s amended motion to dismiss and amended motion to strike, without prejudice to a  
20 motion addressed to the amended complaint.

21 In light of this order, the court will vacate the hearing scheduled for June 7, 2017, and  
22 deny plaintiff’s motion to continue the hearing, ECF No. 29, as moot.

23 Accordingly, IT IS HEREBY ORDERED that


- 24 1. Defendant’s amended motion to dismiss, ECF No. 24, is vacated;
- 25 2. Defendant’s amended motion to strike, ECF No. 25, is vacated;
- 26 3. The court’s June 7, 2017, hearing is vacated;
- 27 4. Plaintiff’s motion to continue the hearing, ECF No. 29, is denied; and

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5. Defendant is directed to file a responsive pleading or 12(b) motion within twenty-one (21) days of this order.

DATED: May 26, 2017

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE