

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

REYNALDO M. MANOOS, on behalf of
himself and all others similarly situated,

No. C 08-3359 MMC

Plaintiff,
v.

**ORDER DENYING AS MOOT
DEFENDANT’S MOTION TO DISMISS**

CITIBANK, N.A., dba CITI,
Defendant.

Before the Court is the Motion to Dismiss of defendant Citibank (South Dakota), N.A. (“Citibank”), incorrectly identified as Citibank, N.A., dba CITI, filed August 15, 2008. On October 4, 2008, plaintiff filed a First Amended Complaint.

A party may amend a pleading “once as a matter of course at any time before a responsive pleading is served.” See Fed. R. Civ. P. 15(a).¹ “[A]n amended pleading supersedes the original, the latter being treated thereafter as non-existent.” Bullen v. De Bretteville, 239 F.2d 824, 833 (9th Cir. 1956).

Accordingly, Citibank’s Motion to Dismiss is hereby DENIED as moot.

IT IS SO ORDERED.

Dated: October 8, 2008


MAXINE M. CHESNEY
United States District Judge

¹A motion to dismiss is not a “responsive pleading.” See Crum v. Circus Circus Enterprises, 231 F. 3d 1129, 1130 n.3 (9th Cir. 2000).