

1 UNITED STATES DISTRICT COURT
2 Northern District of California

3
4 GRANITE ROCK COMPANY

No. C 12-02974 MEJ

5 Plaintiff(s),

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

6 v.

7 TEAMSTERS UNION LOCAL NO 890

8 Defendant(s).
9

10 Pending before the Court is Defendant's Motion to Dismiss. (Dkt. No. 7.) However, on July
11 23, 2012, Plaintiff filed an Amended Complaint. (Dkt. No. 12.) Under Federal Rule of Civil
12 Procedure 15, a party may amend its pleading once "as a matter of course" within "21 days after
13 service of a responsive pleading or 21 days after service of a motion. Fed. R. Civ. P. 15(a)(1).
14 Thus, as no prior amended complaints have been filed, Plaintiff was entitled to file an amended
15 complaint as a matter of course under Rule 15(a). The amended complaint supersedes the original
16 complaint, and the original complaint is treated as non-existent. Since Defendant's motion is based
17 on Plaintiff's original complaint, the Court hereby DENIES Defendant's motion as moot. Defendant
18 shall file an answer or other responsive pleading within 30 days from the date of this Order.

19 Plaintiff is advised that no further amendments may be made without seeking leave of Court
20 pursuant to Rule 15 and Civil Local Rule 7. Any attempt to file an amended complaint without
21 proper notice to Defendant under Civil Local Rule 7 and a court order shall be stricken.

22 **IT IS SO ORDERED.**

23
24 Dated: July 24, 2012

25 
26 Maria-Elena James
27 Chief United States Magistrate Judge
28