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

DEDRICK RILEY,

No. C 13-4752 MMC

Plaintiff,

**ORDER DENYING AS MOOT  
DEFENDANTS' MOTION TO DISMISS  
COMPLAINT, STAY PROCEEDINGS,  
AND/OR STRIKE PLEADINGS;  
VACATING HEARING**

v.

THE CITY OF RICHMOND, et al.,

Defendants.

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Before the Court is defendants' "Motion to Dismiss Complaint, Stay Proceedings, and/or Strike Pleadings," filed December 31, 2013. On January 14, 2014, plaintiff filed a First Amended Complaint ("FAC").

A party may amend a pleading "once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." See Fed. R. Civ. P. 15(a). "[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), cert. denied, 353 U.S. 947 (1957).

Here, plaintiff filed the FAC within 21 days of the date on which he was served with defendants' motion to dismiss, and, consequently, was entitled to amend. See Fed. R. Civ. P. 15(a).


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Accordingly, the Court hereby DENIES as moot defendants' motion, and VACATES the February 7, 2014 hearing scheduled thereon.

**IT IS SO ORDERED.**

Dated: January 29, 2014

  
MAXINE M. CHESNEY  
United States District Judge