

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 SCOTT FITZGERALD,
4 Plaintiff,
5 v.
6 BOSCO CREDIT, LLC, et al.,
7 Defendants.
8

Case No. [16-cv-01473-MEJ](#)

**ORDER FINDING AS MOOT MOTION
TO DISMISS**

Re: Dkt. Nos. 8, 13

9 Pending before the Court are the Motions to Dismiss filed by Defendants. Dkt. Nos. 8, 13.
10 However, on May 2, 2016, Plaintiff filed an Amended Complaint. Dkt. No. 15. Under Federal
11 Rule of Civil Procedure 15, a party may amend its pleading once “as a matter of course” within
12 “21 days after service of a motion under Rule 12(b), (e), or (f).” Fed. R. Civ. P. 15(a)(1)(B).
13 “[T]he general rule is that an amended complaint supercedes the original complaint and renders it
14 without legal effect” *Lacey v. Maricopa County*, 693 F.3d 896, 927 (9th Cir. 2012) (en
15 banc). Thus, as no prior amended complaints have been filed, Plaintiff could file an amended
16 complaint as a matter of course under Rule 15(a). Further, “[d]ismissal of the superseded original
17 complaint would not alter the proceedings . . . as the parties would continue to litigate the merits
18 of the claims contained in the now-operative First Amended Complaint.” *See Liberi v. Defend*
19 *Our Freedoms Founds., Inc.*, 509 F. App’x 595, 596 (9th Cir. 2013) (dismissing as moot appeal of
20 denial of an anti-SLAPP motion regarding a superseded complaint). Thus, since the pending
21 motion is based on the original complaint, the Court hereby DENIES the motion as moot.
22 Defendants shall file an answer or other responsive pleading within 21 days from the date of this
23 Order. The Court advises Plaintiff that no further amendments may be made without seeking
24 leave of Court pursuant to Rule 15 and Civil Local Rule 7.

25 **IT IS SO ORDERED.**

26 Dated: May 2, 2016

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MARIA-ELENA JAMES
United States Magistrate Judge