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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL CAGLE, et al.,  
Plaintiffs,  
v.  
OCWEN LOAN SERVICING, LLC, et al.,  
Defendants.

Case No. [16-cv-06187-MEJ](#)  
**ORDER DENYING MOTION TO  
DISMISS AS MOOT**

Defendants HSBC Bank, USA and OCWEN Loan Servicing, LLC (together, “Defendants”) moved to dismiss the Complaint filed by Plaintiffs Michael and Anna Cagle (together, “Plaintiffs”) pursuant to Federal Rule of Civil Procedure 12(b)(6). *See* Mot., Dkt. No. 7. Plaintiffs filed a Notice of Non-Opposition to the Motion and indicated they would file an amended complaint. *See* Not. of Non-Opp’n, Dkt. No. 10. Plaintiffs did so on November 23, 2016. *See* Am. Compl., Dkt. No. 11.

A party may amend its pleading once “as a matter of course” within “21 days after service of a motion under Rule 12(b), (e), or (f).” Fed. R. Civ. P. 15(a)(1)(B). “[T]he general rule is that an amended complaint supercedes the original complaint and renders it without legal effect . . . .” *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012) (en banc). As no prior amended complaints have been filed, Plaintiffs can file an amended complaint as a matter of course under Rule 15(a). Further, “[d]ismissal of the superseded original complaint would not alter the proceedings . . . as the parties would continue to litigate the merits of the claims contained in the now-operative First Amended Complaint.” *Liberi v. Defend Our Freedoms Founds., Inc.*, 509 Fed. App’x 595, 596 (9th Cir. 2013) (dismissing as moot appeal of denial of an anti-SLAPP motion regarding a superseded complaint).

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Since the pending Motion is based on the original complaint, the Court hereby **DENIES** the Motion as moot. Defendants shall file an answer or other responsive pleading within 21 days from the date of this Order.

**IT IS SO ORDERED.**

Dated: November 28, 2016

  
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MARIA-ELENA JAMES  
United States Magistrate Judge