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

LACY ROSE,  
Plaintiff,  
v.  
EQUIFAX, INC., et al.,  
Defendants.

Case No. [17-cv-00419-MMC](#)

**ORDER DENYING AS MOOT  
DEFENDANT TD BANK USA, N.A.'S  
MOTION TO DISMISS; VACATING  
HEARING**

Before the Court is defendant TD Bank USA, N.A.'s ("TD Bank") "Motion to Dismiss Plaintiff's Complaint Pursuant to Rule 12(b)(6)," filed March 17, 2017. On April 7, 2017, plaintiff filed an "Amended Complaint for Damages."

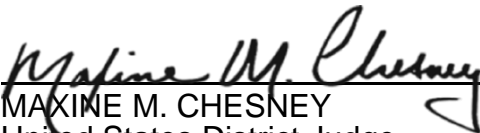
A party may amend a pleading "once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." See Fed. R. Civ. P. 15(a). "[A]n amended pleading supersedes the original, the latter being treated thereafter as non-existent." Bullen v. De Bretteville, 239 F.2d 824, 833 (9th Cir. 1956), cert. denied, 353 U.S. 947 (1957).

In the instant case, plaintiff filed her Amended Complaint within 21 days after service of defendant's motion to dismiss, and, consequently, was entitled to amend as of right. See Fed. R. Civ. P. 15(a).

Accordingly, the Court hereby DENIES as moot TD Bank's motion, and VACATES the April 28, 2017 hearing scheduled thereon.

**IT IS SO ORDERED.**

Dated: April 7, 2017

  
MAXINE M. CHESNEY  
United States District Judge