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

MARK BOSIA,
Plaintiff,
v.
OCWEN LOAN SERVICING, LLC,
Defendant.

Case No. [17-cv-02701-MMC](#)

**ORDER DENYING AS MOOT
DEFENDANTS' MOTION TO DISMISS;
VACATING HEARING**

Re: Dkt. No. 19

Before the Court is defendants Ocwen Loan Servicing, LLC (“Ocwen Loan”) and Ocwen Mortgage Servicing, Inc.’s (“Ocwen Mortgage”) motion, filed June 30, 2017, to dismiss plaintiff’s complaint. On July 14, plaintiff filed an Amended Complaint (“AC”) against defendant Ocwen Loan.¹

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 his AC within 21 days after service of defendants’ motion to dismiss, and, consequently, was entitled to amend. See Fed. R. Civ. P. 15(a).

Accordingly, the Court hereby DENIES as moot defendants’ motion, and


¹ By order filed July 13, 2017, the Court approved plaintiff’s voluntary dismissal of Ocwen Mortgage.

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VACATES the August 4, 2017 hearing scheduled thereon.

IT IS SO ORDERED.

Dated: July 14, 2017


MAXINE M. CHESNEY
United States District Judge