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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GRACIELA RUIZ DE NAVARRO,  
  
Plaintiff,  
  
vs.  
  
GREENLIGHT FINANCIAL SERVICES,  
et al.,  
  
Defendants.

CASE NO. 10cv1631-MMA(JMA)

**ORDER RE: DEFENDANTS’  
MOTIONS TO DISMISS  
PLAINTIFF’S COMPLAINT**

[Doc. Nos. 5 & 7]

On April 1, 2010, Plaintiff Graciela Ruiz De Navarro commenced an action in Imperial County Superior Court against defendants Greenlight Financial Services, Erica Lizarraga, Saxon Mortgage Services, Inc., and Chicago Title Company. On August 5, 2010, Greenlight removed the action to this Court. Greenlight filed a [Doc. No. 5] motion to dismiss Plaintiff’s complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) on August 10, 2010. On August 13, 2010, Saxon also filed a [Doc. No. 7] motion to dismiss. On August 27, 2010, in lieu of any opposition papers, Plaintiff filed a first amended complaint [Doc. No. 9].<sup>1</sup> The complaint which Greenlight and Saxon move to dismiss is no longer the operative pleading in this action. An amended complaint

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<sup>1</sup> Under Rule 15(a), “[a] party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served.” ASC did not file an answer, and instead filed a motion to dismiss. A motion to dismiss is not a “responsive pleading” within the meaning of Rule 15, accordingly Plaintiffs did not need leave of court to amend their complaint once as a matter of right. *See Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 216 F.3d 764, 788 (9th Cir. 2000).

1 supercedes the original complaint. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997);  
2 *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Once a plaintiff files an amended complaint, the  
3 original pleading no longer serves any function in the case. Because the pending motions seek  
4 dismissal of a complaint that is no longer the operative pleading in this case, the motions have  
5 become moot.

6 Accordingly, **IT IS HEREBY ORDERED THAT** Defendants Greenlight Financial  
7 Services and Saxon Mortgage Services, Inc.'s [Doc. Nos. 5 & 7] motions to dismiss are **DENIED** as  
8 moot.

9 **IT IS SO ORDERED.**

10 DATED: September 2, 2010



Hon. Michael M. Anello  
United States District Judge

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