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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STEVEN D. McLAREN and RAMONA)
H. McLAREN,)
)
Plaintiffs,)
)
v.)
RECONSTRUST COMPANY, N.A, *et*)
al.,)
)
Defendants.)
_____)

Civil No. 10cv2090 L(NLS)
**ORDER GRANTING MOTION FOR
LEAVE TO FILE AN AMENDED
COMPLAINT [doc. #12] and
DENYING AS MOOT AND
WITHOUT PREJUDICE MOTION
TO DISMISS [doc. #6]**


Defendants moved to dismiss plaintiffs’ first amended complaint (“FAC”). In response, plaintiffs, who are appearing *pro se*, filed a motion for leave file a second amended complaint (“SAC”) and a response to defendants’ motion. On January 10, 2011, defendants filed a notice of non-opposition to plaintiffs’ motion for leave to file a SAC. Because defendants do not oppose the filing of a SAC, the Court will grant plaintiffs’ motion. As a result, plaintiffs’ SAC will supersede the FAC as a pleading and the court will treat the existing motion to dismiss as moot. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990).

Based on the foregoing, **IT IS ORDERED** denying without prejudice and as moot defendants’ motion to dismiss the FAC. **IT IS FURTHER ORDERED** granting plaintiffs’ motion to file a second amended complaint. Plaintiffs shall file and serve upon opposing

1 counsel their SAC within ten days from the filing of this Order.

2 **IT IS SO ORDERED.**

3 DATED: January 12, 2011

4 
5 M. James Lorenz
6 United States District Court Judge

6 COPY TO:

7 HON. NITA L. STORMES
8 UNITED STATES MAGISTRATE JUDGE

9 ALL PARTIES/COUNSEL

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