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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JEFFREY S. CORNTHWAITE, an
12 individual,
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Plaintiff,

v.

HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY, a
Connecticut Corporation; JPMORGAN
CHASE BANK, a New York Corporation;
and GROUP LONG TERM DISABILITY
PLAN FOR EMPLOYEES OF
JPMORGAN CHASE BANK, a Welfare
Benefit Plan,
Defendants.

Case No.: 16-cv-2263-BEN-DHB

**ORDER DENYING MOTION TO
DISMISS AS MOOT**

[ECF No. 11]

Before the Court is Defendants JPMorgan Chase Bank, N.A. and JPMorgan Chase Long-Term Disability Plan's¹ Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6) and Motion to Strike under Federal Rule of Civil Procedure 12(f). (ECF No.

¹ Defendants JPMorgan Chase Bank, N.A. and JPMorgan Chase Long Term Disability Plan were erroneously sued as JPMorgan Chase Bank and Group Long Term Disability Plan for Employees of JPMorgan Chase Bank, respectively.

1 11.) Shortly after Defendants filed their motion, Plaintiff filed his First Amended
2 Complaint as a matter of right under Federal Rule of Civil Procedure 15. (ECF No. 12.)

3 Under Federal Rule of Civil Procedure 15(a)(1)(B), a party may amend its pleading
4 once as a matter of course within 21 days after service of a responsive pleading, if the
5 pleading is one to which a responsive pleading is required, or 21 days after service of a
6 motion under Rule 12(b), (e), or (f), whichever is earlier. Fed. R. Civ. P. 15(a)(1)(B).


7 Here, because another defendant served an answer before the present motion to dismiss,
8 the date of that earlier filing governs. Defendant Hartford Life and Accident Insurance
9 Company served an answer on October 19, 2016. (ECF No. 8.) The First Amended
10 Complaint was filed on November 9, 2016, 21 days after service of the answer.

11 Therefore, the First Amended Complaint was timely filed.

12 The filing of an amended complaint supersedes the original and renders it a nullity.
13 Therefore, a motion to dismiss targeted at the original complaint, which is no longer in
14 effect, is moot. *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir.
15 2015). Accordingly, due to the filing of the First Amended Complaint, Defendant's
16 motion is now moot. Defendant's Motion is **DENIED**.

17 **IT IS SO ORDERED.**

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19 Dated: November 29, 2016

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21 Hon. Roger T. Benitez
22 United States District Judge
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