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

HELON DAWSON,

Plaintiff,

v.

NATHAN MILLS,

Defendant.

Case No.: 16-cv-02925-BAS-AGS

**ORDER TERMINATING AS MOOT
DEFENDANT’S MOTION TO
DISMISS PLAINTIFF’S
COMPLAINT**

[ECF No. 7]

On February 17, 2017, Defendant moved to dismiss Plaintiff’s Complaint under Federal Rule of Civil Procedure 12(b)(6). (ECF No. 7.) Plaintiff did not file an opposition. Rather, she filed a First Amended Complaint on March 7, 2017. (ECF No. 8.)

Federal Rule of Civil Procedure 15(a) provides that a party may file an amended pleading “once as a matter of course within . . . 21 days after service of a motion under Rule 12(b)[.]” Here, Plaintiff filed her amended pleading within 21 days after Defendant served his motion to dismiss under Rule 12(b)(6). Thus, Plaintiff did not require leave of court to amend her pleading, and her First Amended Complaint is now the operative pleading. *See* Fed. R. Civ. P. 15(a). Further, Plaintiff’s “amended complaint supersedes

1 the original,” and her initial Complaint is now treated as “non-existent.” *See Valadez-*
2 *Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011). The Court therefore
3 **TERMINATES AS MOOT** Defendant’s motion to dismiss Plaintiff’s initial Complaint
4 (ECF No. 7).

5 **IT IS SO ORDERED.**

6
7 **DATED: March 29, 2017**

8 
9 **Hon. Cynthia Bashant**
10 **United States District Judge**