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

10 REGINA MARIE WAGNER,

Case No.: 18cv1007-MMA (JLB)

11  
12 Plaintiff,

**ORDER DENYING AS MOOT  
DEFENDANT'S MOTION TO  
DISMISS PLAINTIFF'S  
COMPLAINT**

13 v.

14 TERUMO MEDICAL CORPORATION,

[Doc. No. 8]

15 Defendant.

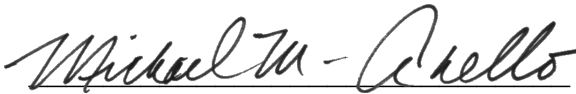
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17 On August 30, 2018, Defendant Terumo Medical Corporation (“Defendant”) filed  
18 a motion to dismiss Plaintiff Regina Marie Wagner’s (“Plaintiff”) Complaint. *See* Doc.  
19 No. 8. On September 17, 2018, Plaintiff filed a First Amended Complaint (“FAC”).<sup>1</sup> *See*  
20 Doc. No. 9. Accordingly, the complaint which Defendant seeks to dismiss is no longer  
21 the operative pleading in this action, as an amended complaint supersedes the original  
22 complaint. *See Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015)  
23 (citing *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled on other*  
24 *grounds by Lacey v. Maricopa Cnty.*, 693 F.3d 896, 927-28 (9th Cir. 2012)). As such, the  
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27 <sup>1</sup> Pursuant to Federal Rule of Civil Procedure 15(a)(1), “[a] party may amend its pleading once  
28 as a matter of course within . . . 21 days after service of a motion under Rule 12(b) . . . .” Fed. R. Civ. P.  
15(a)(1). Because Plaintiff amended her pleading within 21 days after service of Defendant’s motion to  
dismiss pursuant to Rule 12(b)(2) and 12(b)(6), Plaintiff’s FAC is timely.

1 Court **DENIES AS MOOT** Defendant's motion to dismiss Plaintiff's Complaint (Doc.  
2 No. 8).

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4 **IT IS SO ORDERED.**

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6 Dated: September 17, 2018

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8 HON. MICHAEL M. ANELLO  
9 United States District Judge

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