



1 Local Rule 7.1(d)(1) and Rule 78(b) of the Federal Rules of Civil Procedure. ECF No.  
2 12. After considering the papers submitted, supporting documentation, and applicable  
3 law, the Court **DENIES** Defendants' Motions as moot.

4 **II. BACKGROUND**

5 On August 13, 2020, Plaintiff filed his complaint against Defendants alleging  
6 claims for relief for violations of (1) USERRA; (2) FEHA's prohibition against  
7 Military/Veteran Status Discrimination; (3) FEHA's prohibition against Disability  
8 Discrimination; (4) FEHA's prohibition against Retaliation for Requesting Reasonable  
9 Accommodation; (5) FEHA's prohibition against Failing to Provide Reasonable  
10 Accommodation; (6) FEHA's prohibition against Failing to Engage in Good Faith  
11 Interactive Process; and (7) FEHA's prohibition against Failing to Prevent Discrimination  
12 and/or Retaliation. ECF No. 1.

13 On October 5, 2020, Defendants were personally served with the complaint. ECF  
14 No. 7, 8. On October 23, 2020, Defendant City of El Centro filed a Motion to Dismiss  
15 the Complaint for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil  
16 Procedure. ECF No. 6. On November 4, 2020, Defendant Brian Johnson also filed a  
17 Motion to Dismiss the Complaint for failure to state a claim under Rule 12(b)(6) of the  
18 Federal Rules of Civil Procedure. ECF No. 9.

19 On November 9, 2020, Plaintiff filed a First Amended Complaint alleging the same  
20 claims for relief but adding additional allegations in response to Defendants' Motions.  
21 ECF No. 10,

22 On November 9, 2020, Plaintiff filed a Statement of Non-Opposition to  
23 Defendants' Motion to Dismiss the Complaint Due to the Filing of the First Amended  
24 Complaint. ECF No. 11.

25 **III. DISCUSSION**

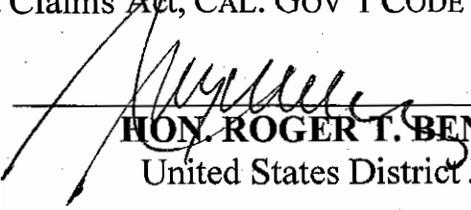
26 "It is well-established in our circuit that an 'amended complaint supersedes the  
27 original, the latter being treated thereafter as non-existent.'" *Ramirez v. Cty. of San*  
28 *Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (reversing the district court's granting

1 of the defendants' motion to dismiss the superseded first amended complaint and the  
2 resulting dismissal of the case because the timely filed second amended complaint mooted  
3 the motion to dismiss targeted at Plaintiff's first amended complaint, which was no longer  
4 in effect). "[A]n issue is moot when deciding it would have no effect within the confines  
5 of the case itself." *Tur v. YouTube, Inc.*, 562 F.3d 1212, 1214 (9th Cir. 2009). Here,  
6 Defendants' Motions to Dismiss sought to dismiss Plaintiff's original complaint, which  
7 is no longer operative due to Plaintiff's filing of his First Amended Complaint. Thus,  
8 granting Defendants' Motion to Dismiss would have no effect within the confines of this  
9 case.

10 **IV. CONCLUSION**

11 For the above reasons, the Court **DENIES** both Defendants' Motion to Dismiss  
12 Plaintiff's original complaint and vacates the hearings set for Monday, November 23, 2020,  
13 at 11:30 a.m., and December 7, 2020 at 10:30 a.m. The Court's ruling is *without prejudice*  
14 to Defendants' ability to file a motion to dismiss Plaintiff's First Amended Complaint.  
15 Further, should Defendants file such a motion, the Parties should address Plaintiff's  
16 compliance with the California Government Claims Act, CAL. GOV'T CODE § 815, *et seq.*

17 DATED: November 18, 2020

  
18 **HON. ROGER T. BENITEZ**  
19 United States District Judge