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

JORDAN BEAL, *individually and on behalf of all others similarly situated*,

Plaintiff,

v.

GREEN RUSH GROUP, INC., et al.,

Defendants.

Case No.: 20-cv-2195-MMA (BGS)

ORDER DENYING MOTION TO DISMISS WITHOUT PREJUDICE AS MOOT

[Doc. No. 6]

Plaintiff Jordan Beal (“Plaintiff”) brings this putative class action against Green Rush Group, Inc. (“Defendant”) alleging violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). *See* Doc. No. 1. On April 23, 2021, Defendant filed a motion to dismiss Plaintiff’s TCPA claims. *See* Doc. No. 6. On April 26, 2021, Plaintiff filed an Amended Complaint in lieu of a response to the pending motion to dismiss. *See* Doc. No. 7.

Under Federal Rule of Civil Procedure 15(a), a party may amend its pleading “as a matter of course . . . 21 days after service of a motion under Rule 12(b).” Fed. R. Civ. P. 15(a)(1)(B). Plaintiff’s Amended Complaint is timely filed under the rule and supersedes the original complaint. As such, the complaint which Defendant moves to dismiss is no longer an operative pleading in this action. *See Forsyth v. Humana, Inc.*, 114 F.3d 1467,

1 1474 (9th Cir. 1997); *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Because
2 Defendant seeks dismissal of an inoperative complaint, the pending motion to dismiss the
3 TCPA claims contained therein is now moot.

4 Accordingly, the Court **DENIES** Defendant's motion to dismiss without prejudice
5 as **MOOT**.

6 **IT IS SO ORDERED.**

7 Dated: April 26, 2021

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

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