

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

FRANCE CABRERA and JOAQUIN  
GARCIA-POLA,

Plaintiffs,

v.

Case No: 2:13-cv-666-FtM-38DNF

MGA INSURANCE COMPANY, INC.,

Defendant.

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**ORDER**

This matter comes before the Court *sua sponte* upon review of the record. On November 18, 2013, the Plaintiff's Motion to Amend ([Doc. #16](#)) was granted. The Court ordered the Clerk of the Court to file the Amended Complaint in the Court's record. However, rather than filing the Amended Complaint, the Clerk's Office re-filed the Original Complaint instead. The Court subsequently issued an Order granting the Defendant MGA's Motion to Dismiss based in part on the improper Amended Complaint. Now upon review of the Motion and the Amended Complaint, the Court notes that the Original Complaint was improperly filed. Therefore, the Court will vacate its Order ([Doc. #23](#)) on the Motion to Dismiss and direct the Clerk of Court to file the correct Amended Complaint.

Accordingly, it is now

**ORDERED:**

(1) The Order Granting the Motion to Dismiss ([Doc. #23](#)) is hereby **VACATED**.

(2) The Clerk of the Court is directed to file the Amended Complaint attached to the Plaintiff's Motion to Amend ([Doc. #16](#)) filed on November 15, 2013 as a separate docket entry.

(3) The Clerk of the Court is directed to reopen for the Court's review the Defendant MGA's Motion to Dismiss ([Doc. #19](#)) filed on November 26, 2013.

**DONE** and **ORDERED** in Fort Myers, Florida this 27th day of January, 2014

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record