

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

JEFF MONEY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. 1:14-CV-253
	)	
KENDALLVILLE PLACE	)	
APARTMENTS, PHASE II, LLC,	)	
d/b/a NELSON ESTATES	)	
APARTMENTS, PHASE II	)	
	)	
Defendant.	)	

**OPINION AND ORDER**

This matter is before the Court on Defendant's Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(6), filed by Defendant, Kendallville Place Apartments, Phase II, LLC, on September 23, 2014. (DE #10.) For the reasons set forth below, the motion is **DENIED AS MOOT**. On September 24, 2014, Magistrate Judge Cosbey granted Plaintiff until October 6, 2014, to file an amended complaint. Plaintiff's First Amended Complaint was filed on October 6, 2014. (DE #14.) An amended complaint becomes controlling once it is filed because the prior pleading is withdrawn by operation of law. *Johnson v. Dossey*, 515 F.3d 778, 780 (7th Cir. 2008); see also *Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1057 (7th Cir. 1998). Because the First Amended Complaint supersedes the original

Complaint, the pending motion to dismiss (DE # 10) is **DENIED AS MOOT.**

**DATED: October 31, 2014**

/s/RUDY LOZANO, Judge  
**United States District Court**