

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

THOA T. NGUYEN, ET AL.

CIVIL ACTION

VERSUS

LOUISIANA STATE BOARD OF
COSMETOLOGY, ET AL.

NO.: 14-00080-BAJ-RLB

RULING AND ORDER

Before the Court is a **Motion to Dismiss (Doc. 17)**, filed by the Louisiana State Board of Cosmetology, Steve Young, Frances Hand, Sherrie Stockstill, and Margaret Keller (collectively, “Defendants”), seeking an Order from the Court to dismiss Plaintiffs’ Complaint pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6).

Defendants filed the instant Motion in response to Plaintiffs’ initial **Complaint for Injunctive Relief and Damages (Doc. 1)** filed on February 6, 2014. With no opposition from Defendants and with leave from the Court, Plaintiffs filed a **First Amended and Supplemental Complaint for Injunctive Relief and Damages (Doc. 44)** on August 13, 2014. Defendants did not amend their motion to dismiss or file a new motion in response to Plaintiffs’ amended Complaint.

Plaintiffs’ amended Complaint adopts and incorporates by reference their initial Complaint. Therefore, their initial Complaint retains legal effect independent from the amended Complaint. *See Canal Ins. Co. v. Coleman*, 625 F.3d 244, 246 n.2 (5th Cir. 2010) (*King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994)) (amended

complaint supersedes original complaint and renders it of no legal effect “*unless* amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading”) (emphasis added). Given that there are currently two legally effective complaints in this matter, it is in the interest of all parties for the Court to ensure that the issues before it are sufficiently sharpened for its ruling.

Accordingly,

IT IS ORDERED that Defendants’ **Motion to Dismiss (Doc. 17)** pursuant to Rule 12(b)(6) is **DENIED WITHOUT PREJUDICE**, to be reasserted, if Defendants so choose, in response to Plaintiffs’ amended complaint.

IT IS FURTHER ORDERED that, should Defendants choose to re-file a motion to dismiss pursuant to Rule 12(b)(6), they shall do so no later than **January 14, 2015 at 5:00 p.m.** Any amended motion to dismiss filed by Defendants must be complete in itself and must not incorporate by reference any prior pleading.

Baton Rouge, Louisiana, this 18th day of December, 2014.



**BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**