

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

JAMES TIFFANY, et al.,

Plaintiffs,

Case No. 15-cv-12157

v.

Honorable Thomas L. Ludington

MICHIGAN DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, et al.,

Defendants.

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**ORDER DENYING DEFENDANTS' MOTIONS TO DISMISS AS MOOT**

On June 12, 2015, Plaintiffs initiated this case against Defendants Michigan Department of Health and Human Services and Community Mental Health for Central Michigan. ECF No. 1. In their complaint Plaintiffs allege violations of Due Process and Equal Protection and seek preliminary injunctive and declaratory relief. *Id.*

On August 7, 2015, Defendants Department of Health and Human Services and Community Mental Health filed motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF Nos. 16, 17, & 18. Defendants sought dismissal of Plaintiffs' complaint in its entirety.

Plaintiffs amended their complaint as of right on August 28, 2015. ECF No. 21; Fed. R. Civ. P. 15(a)(1)(B) (allowing a party to amend a pleading as a matter of course within 21 days of being served a motion under Rule 12(b)). Plaintiffs' Amended Complaint added a new Defendant, Mid State Health Plan Network Pre-Paid Inpatient Health Plan, and a new count against the first two Defendants, Count III (alleging violations of the Michigan Mental Health Code). ECF No. 21.

When an amended complaint is filed, the prior complaint is superseded and rendered moot. *See Smith & Nephew Inc. v. Fed. Ins. Co.*, 113 F. App'x 99, 102 (6th Cir. 2004). In general, then, “motions directed at the superseded pleading generally are to be denied as moot.” *Mize v. Blue Ridge Bank*, No. 8:12-CV-2763-JMC-JDA, 2013 WL 1766659, at \*1 (D.S.C. Feb. 12, 2013) (collecting cases). But, if the amended pleading does not cure the defects raised by the motion directed at the superseded pleading, denying the motion as moot “would be to exalt form over substance.” Wright, Miller, et al., 6 FED. PRAC. & PROC. CIV. § 1476 (3d ed.).

Here, while no defects identified by the original Defendants’ motions have been cured, a new count has been added against both Defendants. In response, all Defendants timely filed motions to dismiss directed at Plaintiffs’ Amended Complaint. They did not withdraw their prior motions. Defendants Department of Health and Human Services and Defendant Community Mental Health’s original motions will be denied as moot.

Accordingly, it is **ORDERED** that Defendants Michigan Department of Health and Human Services and Community Mental Health for Central Michigan’s Motions to Dismiss, ECF No. 16, 17, & 18, are **DENIED as moot**.

It is further **ORDERED** that the motion hearing schedule for **October 22, 2015 at 2:00 p.m.** is **CANCELLED**.

Dated: September 22, 2015

s/Thomas L. Ludington \_\_\_\_\_  
THOMAS L. LUDINGTON  
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 22, 2015.

s/Michael A. Sian \_\_\_\_\_  
MICHAEL A. SIAN, Case Manager