



1 **II. Discussion**

2 Plaintiffs filed an amended complaint in the MDL court on August 19, 2010, containing  
3 eleven causes of action against nine defendants.<sup>1</sup> The MDL court remanded claims three, five, six  
4 and a portion of claim two to this court. (*See* docket # 70). The amended complaint does not allege  
5 claims three, five, or six against LaSalle. Thus, the only remaining claim within this court’s  
6 jurisdiction and alleged against LaSalle is the remaining portion of claim two.

7 A review of the amended complaint demonstrates that the only remaining portion of claim  
8 two as it pertains to LaSalle is a request for declaratory relief. Declaratory relief is merely a form  
9 of an available remedy. *See, e.g., In re Wal-Mart Wage & Hour Emp’t Practices Litig.*, 490 F. Supp.  
10 2d 1091, 1130 (D. Nev. 2007). Declaratory relief, alone, is not an independent claim for relief. *See,*  
11 *e.g., Stock West, Inc. v. Confederated Tribes of Coville Reservations*, 873 F.2d 1221, 1225 (9<sup>th</sup> Cir.  
12 1989). As plaintiffs have no remaining causes of action against this defendant, they are not entitled  
13 to the requested relief.

14 Although plaintiffs filed both a response in opposition and a sur-reply, they do not appear to  
15 actually oppose defendant’s motion to dismiss. Plaintiffs’ non-opposition itself provides an  
16 additional ground for dismissal. *See* LR 7-2 (“The failure of an opposing party to file points and  
17 authorities in response to any motion shall constitute a consent to the granting of the motion.”).  
18 Rather than including points and authorities in opposition, plaintiffs merely seek an explanation from  
19 the court as to “why LaSalle bank’s name was recorded onto the property from the start...” and ask  
20 that the court “[p]lease help [them] understand how LaSalle bank became an entity in this property.”  
21 (*See* doc. # 95).

22 However, because plaintiffs have no remaining causes of action against LaSalle, there is not  
23 an existing case or controversy with respect to this particular defendant. Any answer this court could  
24 give in response to plaintiffs’ request would, therefore, amount to an impermissible advisory  
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26 <sup>1</sup> An amended complaint supersedes the original, thus the amended complaint filed in the MDL court is the  
27 operative complaint here. *See, e.g., Lacey v. Maricopa County*, 649 F.3d 1118, 1138 (9th Cir. 2011)(quoting *Loux v.*  
28 *Rhay*, 375 F.2d 55, 57 (9th Cir. 1967)(“The amended complaint supersedes the original, the latter being treated thereafter  
as nonexistent.”)(overruled on other grounds)).

1 opinion.


2 Accordingly,

3 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant LaSalle Bank's  
4 motion to dismiss with prejudice (doc. # 88) be, and the same hereby is, GRANTED.

5 DATED November 15, 2013.

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UNITED STATES DISTRICT JUDGE

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