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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

PATRICIA G. BARNES,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting  
Commissioner Social Security  
Administration,

Defendant.

Case No. 3:18-cv-00199-MMD-WGC

ORDER

*Inter alia* before the Court is Plaintiff's unopposed motion for leave to file a second amended complaint and accompanying complaint ("Motion"). (ECF No. 80, 80-1; ECF No 81 (Defendant's response and non-opposition to Plaintiff's Motion).) In the Motion, Plaintiff seeks to amend her complaint to omit claims and to make certain corrections. (ECF No. 80; *compare* ECF No. 46 *with* ECF No. 80-1.) In light of Defendant's non-opposition to Plaintiff's Motion and other pertinent considerations, the Court grants the Motion. *See, e.g., Leadsinger, Inc. v. BMG Music Publ'g*, 512 F.3d 522, 532 (9th Cir. 2008) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)) (explaining considerations for the courts in exercising discretion as to whether to grant a motion to amend); *see also* Fed. R. Civ. P. 15(a)(2) (providing that once a responsive pleading has been filed, "a party may amend its pleading only with the opposing party's written consent or the court's leave"); LR 7-2(d) ("The failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes consent to the granting of the motion."). Plaintiff's second amended complaint (ECF No. 80-1) is now the operative complaint. *See Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled on other grounds by Lacey v. Maricopa Cty.*, 693 F.3d 896 (9th Cir. 2012) (explaining an amended complaint supersedes the original).


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Because the Court grants Plaintiff's Motion, all pending motions (ECF Nos. 52 (motion to dismiss), 62 (motion to strike), 79 (Plaintiff's first motion for partial summary judgment)) related to the prior complaint are denied as moot.

It is therefore ordered that Plaintiff's motion to amend/correct her complaint (ECF No. 80) is granted. The Clerk is directed to detach and file the proposed second amended complaint attached to Plaintiff's motion (ECF No. 80-1).

It is further ordered that all pending motions (ECF Nos. 52, 62, 79) are denied as moot.

DATED THIS 15<sup>th</sup> day of April 2019.

  
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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE