

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Michael Gorsuch

v.

Civil No. 10-cv-495-JD

James J. Maloney, et al.

O R D E R

Michael Gorsuch brought state and federal claims against Nashua Police Department officers, the City of Nashua, and New Hampshire State Troopers Carleen Bowman and Mark Nash. The claims arose out of events following a fatal car crash. Bowman and Nash moved to dismiss the claims against them on the grounds that the court lacked subject matter jurisdiction. Gorsuch then moved for leave to file an amended complaint, which was granted.

Once filed, the amended complaint superseded the original, and "[t]hereafter, the earlier complaint is a dead letter and no longer performs any function in the case." Connectu LLC v. Zuckerberg, 522 F.3d 82, 91 (1st Cir. 2008). As a result, motions to dismiss the original complaint are rendered moot. See In re Celexa & Lexapro Marketing & Sales Practices Litig., --- F. Supp. 2d ---, 2010 WL 4644429, at *4 (D. Mass. nov. 10, 2010); Wheeler v. HXI, LLC, 2010 WL 3211127, at *1 (D.N.H. Aug. 11, 2010).

Conclusion

For the foregoing reasons, the defendants' motions to dismiss (documents nos. 12 and 13) are denied, without prejudice, as moot.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

March 18, 2011

cc: Brian J.S. Cullen, Esquire
Richard J. Lehmann, Esquire
Kevin H. O'Neill, Esquire