

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JESSIE McINTYRE,

Plaintiff,

DECISION AND ORDER

16-CV-6408L

v.

CITY OF ROCHESTER, et al.,

Defendants.

Plaintiff Jessie McIntyre brought this action *pro se* in June 2016, asserting claims under 42 U.S.C. § 1983 against the City of Rochester (“City”) and two “John Doe” defendants. After the City moved to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (Dkt. #5), plaintiff, through newly-retained counsel, filed an amended complaint (Dkt. #8). The City has not moved against or otherwise responded to the amended complaint.

The City’s motion to dismiss is based on its arguments that the original complaint did not identify any policy or custom that could give rise to municipal liability, and that plaintiff had not alleged any facts in support of his “negligent training” claim. *See* Dkt. #5-1 at 2-3.

At least on its face, the amended complaint appears to address those alleged defects. It sets forth factual allegations regarding the City’s policies and customs, and the City’s allegedly inadequate training of the police officers involved in the events giving rise to plaintiff’s claims. *See* Dkt. #8 ¶¶ 4, 19-25.¹

The Court finds, therefore, that the filing of the amended complaint moots the motion to dismiss the original complaint. *See, e.g., American Med. Distributors, Inc. v. Saturna Group*

¹The amended complaint also asserts claims against three named individuals.

Chartered Accountants, LLP, No. 15-cv-6532, 2016 WL 3920224, at *1 (E.D.N.Y. July 15, 2016) (defendants' motions to dismiss the complaint were rendered moot by plaintiff's filing of an amended complaint). The motion to dismiss is therefore denied as moot.

CONCLUSION

Defendant's motion to dismiss (Dkt. #5) is denied as moot.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 9, 2017.