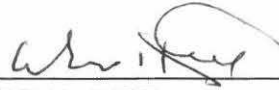


The original complaint filed by Plaintiff, pro se, named as Defendants the City and Cognitians, LLC. Doc. #4. Thereafter, the City filed its motion to dismiss, Doc. #7, and Plaintiff requested and received leave to file an amended complaint. Doc.#9 and Notation Order sustaining same. Plaintiff filed her Amended Complaint, Doc. #12, and in this amended pleading named only the Dayton Municipal Court and Cognitians, LLC as Defendants. Because the amended pleading supersedes the original complaint, the City is no longer a party and is effectively dismissed from these proceedings. *Drake v. City of Detroit*, 266 Fed.Appx. 444, 448 (6th Cir.2008) (stating that a prior “complaint is a nullity, because an amended complaint super[c]edes all prior complaints”); See *Howard v. Montgomery Cty. Jail*, No. 3:16-CV-517, 2018 WL 3020216, at *2 (S.D. Ohio June 18, 2018), *report and recommendation adopted*, No. 3:16-CV-517, 2018 WL 3832946 (S.D. Ohio Aug. 13, 2018) (holding that a party named in the original complaint, but not named in the operative amended pleading, is no longer a party to the case and has, effectively, been dismissed as a party from the action) (citing *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1989)). Based on this legal authority, the motion to dismiss filed by the City is moot.

Accordingly, the Court ADOPTS Magistrate Judge Newman’s Report and Recommendations, Doc. #26, OVERRULES the City’s motion to dismiss, Doc. #7, as moot and terminates the City as a party to this litigation. The case remains pending as to Defendants Cognitians, LLC and the Dayton Municipal Court.

Date: February 3, 2019



WALTER H. RICE
UNITED STATES DISTRICT JUDGE