

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>EDWARD J. COPE,</b>	:	<b>CIVIL NO. 4:12-CV-2382</b>
	:	
<b>Plaintiff,</b>	:	<b>(Judge Brann)</b>
	:	
v.	:	
	:	<b>(Magistrate Judge Carlson)</b>
<b>BOROUGH OF MIDDLETOWN, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**MEMORANDUM ORDER**

This is a civil rights action brought by Edward Cope on November 29, 2012. Following the filing of this complaint, the defendants responded by filing three motions to dismiss various parties and claims. (Docs. 13, 15, and 16.) Upon receipt of these motions, the plaintiff advised the court and the defendants of his intention to endeavor to amend his complaint to meet the objections raised by various defendants in their motions. (Docs. 18 and 19.) The plaintiff has now filed an amended complaint. (Doc. 23.)

We believe that this development has substantive significance for the parties since, as a matter of law, an amended complaint takes the place of the original complaint, effectively invalidating the original complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) ("[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect"); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal

Practice & Procedure § 1476 (2d ed. 1990) ("A pleading that has been amended ... supersedes the pleading it modifies.... Once an amended pleading is interposed, the original pleading no longer performs any function in the case..."). Since the complaint in this case has been amended, the original complaint is now a nullity, and any motion to dismiss challenging that original complaint is now moot. Therefore, we will DISMISS the pending motions to dismiss as moot, but without prejudice to the defendants renewing these motion as to the amended complaint, within the time limits set by the rules of this court for filing responsive pleadings.

Accordingly, for the foregoing reasons, the defendants' motions to dismiss filed in this action (Docs. 13, 15 and 16.) are DISMISSED as moot, but without prejudice to the filing of an appropriate dispositive motion challenging the amended complaint.

So ordered this 25th day of February 2013.

**S/Martin C. Carlson**

Martin C. Carlson

United States Magistrate Judge