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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 FRANCIS TOLENTINO,

11 Plaintiff,

12 v.

13 U.S. CITIZENSHIP &  
14 IMMIGRATION SERVICES, et al.,

15 Defendants.

CASE NO. C16-0451JLR

ORDER GRANTING MOTION  
TO AMEND AND RESOLVING  
OTHER MOTIONS

16 **I. INTRODUCTION**

17 On June 28, 2016, the court entered an order granting the parties' joint motion to  
18 hold the case in abeyance pending a final administrative decision in this matter. (*See*  
19 6/28/16 Order (Dkt. # 13).) The order also struck Defendants' June 2, 2016, motion to  
20 dismiss "without prejudice to refile after the abeyance is lifted." (*Id.* at 2.) At the  
21 parties' request, the court twice extended the abeyance in this matter. (*See* 10/4/16 Order  
22 (Dkt. # 15); 12/2/16 Order (Dkt. # 17).)

1 Before the court are three motions: (1) Defendants' motion to reactivate the case  
2 and to dismiss Plaintiff Francis Tolentino's complaint (MTD (Dkt. # 18)); (2) Mr.  
3 Tolentino's unopposed motion for an extension of time to respond to Defendants' motion  
4 to dismiss (MFE (Dkt. # 19); *see also* Notice (Dkt. # 20) (stating that Defendants have no  
5 objection to Plaintiff's motion for an extension of time)); and (3) Mr. Tolentino's  
6 unopposed motion to amend his complaint in lieu of responding to Defendants' motion to  
7 dismiss (MTA (Dkt. # 21)). The court has considered the motions, the parties'  
8 submissions related to the motions, the relevant portions of the record, and the applicable  
9 law. Being fully advised, the court GRANTS Mr. Tolentino's motion to amend his  
10 complaint, GRANTS in part and DENIES in part Defendants' motion, and DENIES as  
11 moot Mr. Tolentino's motion for an extension of time.

## 12 II. ANALYSIS

13 Federal Rule of Civil Procedure 15(a)(2) states, in relevant part, that "a party may  
14 amend its pleading . . . with the opposing party's written consent or the court's leave,"  
15 and that the court "should freely give leave when justice so requires." Fed. R. Civ. P.  
16 15(a)(2). Because Defendants do not oppose Mr. Tolentino's motion to amend his  
17 complaint, the court grants the motion. The court further orders Mr. Tolentino to file his  
18 amended complaint no later than May 15, 2017. (*See* Prop. Ord. (Dkt. # 21-1) at 2.)  
19 Defendants shall file a response to Mr. Tolentino's amended complaint in accordance  
20 with the Federal Rules of Civil Procedure.

21 Once Mr. Tolentino files his amended complaint, it will supersede Mr. Tolentino's  
22 original complaint and become the operative complaint in this proceeding. *See Lacey v.*

1 *Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012) (en banc) (recognizing “the general  
2 rule . . . that an amended complaint supercedes [sic] the original complaint and renders it  
3 without legal effect”). Accordingly, the court grants in part and denies in part  
4 Defendants’ motion to reactivate this proceeding and dismiss Mr. Tolentino’s complaint.  
5 The courts grants the portion of Defendants’ motion seeking to reactivate the case and  
6 lifts the abeyance. However, because Mr. Tolentino’s original complaint will no longer  
7 have any legal effect after he files his amended complaint, the court denies as moot the  
8 portion of Defendants’ motion seeking to dismiss the original complaint.

9 Finally, Mr. Tolentino’s motion for an extension of time to respond to Defendants’  
10 motion to dismiss is also moot. Accordingly, the court also denies that motion.

### 11 **III. CONCLUSION**

12 Based on the foregoing analysis, the court GRANTS Mr. Tolentino’s motion to  
13 amend his complaint (Dkt. # 21), GRANTS in part and DENIES in part Defendants’  
14 motion to reactivate this case and to dismiss Mr. Tolentino’s complaint (Dkt. # 18), and  
15 DENIES as moot Mr. Tolentino’s motion for an extension of time (Dkt. # 19).

16 Dated this 5th day of April, 2017.

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19 JAMES L. ROBART  
20 United States District Judge  
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