



F.Supp.2d, 2010 WL 918573 (S.D. Tex. March 12, 2010) (citing *King v. Dogan*, 31 F.3d 344, 346 (5th Cir.1994); see *Carroll v. Fort James Corp.*, 470 F.3d 1171, 1176 (5<sup>th</sup> Cir.2006). See also, *Summit Office Park, Inc. v. U.S. Steel Corp.*, 639 F.2d 1278, 1281 fn 6 (5<sup>th</sup> Cir. 1981) (“the filing of the Amended Complaint moots the pending motions for partial summary judgment and dismissal on this issue”). In responding to the motion to dismiss, Plaintiffs do not adopt and incorporate by reference the original complaint filed herein. They rely upon the Amended Complaint.

3. In light of Plaintiffs’ filing of the Amended Complaint in reliance upon it, the Amended Complaint supersedes the original, making the earlier complaint a dead letter, and moots the motion to dismiss, and requiring its denial. *McKeithan v. Boarman*, Not Reported in F.Supp.2d, 2011 WL 2669060 (D. D.C. July 07, 2011) (citing *Wultz v. Islamic Republic of Iran*, Not Reported in F.Supp.2d, 2009 WL 4981537, at \*1 (D. D.C. Dec.14, 2009); *Wheeler v. HXI, LLC*, Not Reported in F.Supp.2d, 2010 WL 3211127 (D. N.H. August 11, 2010) (citing *Connectu LLC v. Zuckerberg*, 522 F.3d 82, 91 (1st Cir. 2008) (internal quotation marks omitted); *Kolling v. Am. Power Conversion Corp.*, 347 F.3d 11, 16 (1st Cir.2003). See also, *Rutherford County v. Bond Safeguard Ins. Co.*, Not Reported in F.Supp.2d, 2010 WL 2775626 (W.D. N.C. July 13, 2010) (“By amending their Complaint . . . within 21 days of defendant's Motion to Dismiss, see Fed.R.Civ.P. 15(a), the Motion to Dismiss became moot as a matter of law.”) (citing *Taylor v. Abate*, 1995 WL 362488, \*2 (E.D. N.Y.1995) (“Defendants' motion to dismiss is addressed solely to the original complaint.... Consequently, upon the filing of the amended complaint, their motion is mooted and, therefore, denied.”); *Robinson v. Dean Foods Co.*, Not Reported in F.Supp. 2d, 2009 WL 723329, \*4 (D. Colo. Mar. 18, 2009); see *Mink v. Suthers*,

482 F.3d 1244, 1254 (10<sup>th</sup> Cir. 2007) (citations omitted) (noting that filing of amended complaint supersedes original complaint and renders it without legal effect); *Mata—Cuellar v. Tennessee*, Not Reported in F.Supp.2d, 2010 WL 3122635 at \*2 (M.D. Tenn. Aug. 6, 2010) (“It is well-settled that, because a properly filed amended complaint supersedes and replaces all previous complaints, the filing of an amended complaint generally moots a pending motion to dismiss”); *United States v. Aegis Ins. Co.*, Not Reported in F.Supp.2d, 2009 WL 577286, at \*2 (M.D. Pa. Mar. 5, 2009) (ruling that the filing of an amended complaint moots pending motion).

WHEREFORE, the Court should enter an order denying Verizon Defendants’ motion to dismiss as moot.

DATED this 25<sup>th</sup> day of January, 2013.

Respectfully submitted,

s/ Curtis L. Kennedy

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of January, 2013, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system and causing a copy to be emailed to Defendants' counsel as follows:

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