

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

BENJAMIN SPECTOR,

Plaintiff,

v.

Case No: 2:17-cv-650-FtM-99CM

SUZUKI MOTOR CORPORATION,

Defendant.

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**ORDER**<sup>1</sup>

This matter comes before the Court on Defendant's Motion to Dismiss Amended Petition for Discovery and Complaint ([Doc. 40](#)) filed on June 22, 2018. Plaintiff filed a Response in Opposition ([Doc. 43](#)) on July 6, 2018. For the reasons set forth below, the Motion is denied.

Suzuki Motor Corporation's Motion to Dismiss argues for dismissal of the Amended Complaint ([Doc. 17](#)), however, the Court has already ruled on a previous motion to dismiss directed at the Amended Complaint ([Doc. 29](#)) and Plaintiff filed a Second Amended Complaint ([Doc. 31](#)) on February 13, 2018. "An amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment and is no longer part of the pleader's averments against his adversary." *Dresdner Bank AG*,

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*Dresdner Bank AG in Hamberg v. M/V OLYMPIA VOYAGER*, 463 F.3d 1210, 1215 (11th Cir. 2006) (citations omitted); *Fritz v. Standard Sec. Life Ins. Co.*, 676 F.2d 1356, 1358 (11th Cir.1982) (“Under the Federal Rules, an amended complaint supersedes the original complaint.”).


In this case, once the Second Amended Complaint was filed, the Amended Complaint was superseded; therefore, the Motion to Dismiss the Amended Complaint that argues for dismissal on grounds that have already been remedied by Plaintiff, and for dismissal of counts which Plaintiff has already dropped, is due to be denied.

Accordingly, it is now

**ORDERED:**

Defendant’s Motion to Dismiss Amended Petition for Discovery and Complaint (Doc. 40) is **DENIED**. Defendant’s Answer is due within fourteen days of this Order.

**DONE** and **ORDERED** in Fort Myers, Florida this 23rd day of August, 2018.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record