

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THOMAS McKEITHAN,

Plaintiff,

v.

WILLIAM A. BOARMAN,

**Public Printer, United States
Government Printing Office**

Defendant.

Civil Action No. 11-0086 (ESH)

MEMORANDUM OPINION AND ORDER

On May 25, 2011, the defendant filed a motion to dismiss the complaint [Dkt. No. 11]. This Court issued a minute order granting a request from plaintiff, Thomas McKeithan, to amend his complaint, and directing plaintiff to respond to the motion to dismiss no later than July 6, 2011. (Minute Order, June 27, 2011.) Plaintiff's amended complaint merely included "additional factual bases for holding Defendant responsible for unlawful acts of retaliation." (Pl.'s Mot. for Leave to File an Am. Compl. [Dkt. No. 16] at 4-5.) Nevertheless, by filing the amended complaint, "the plaintiff[] rendered [his] original complaint a nullity." *Wultz v. Islamic Republic of Iran*, No. 08-cv-1460, 2009 WL 4981537, at *1 (D.D.C. Dec. 14, 2009). Therefore, because the defendant's motion seeks to "dismiss a complaint that has been subsequently amended," it is moot and must be denied. *Id.*; *see also Myvett v. Williams*, 638 F. Supp. 2d 59, 62 n.1 (D.D.C. 2009) (denying as moot defendants' motion to dismiss "the original complaint" because "plaintiff filed the amended complaint after the defendants moved to dismiss the original"); *Bancoult v. McNamara*, 214 F.R.D. 5, 13 (D.D.C. 2003) ("Because the original

complaint now is superseded by the amended complaint, the court denies without prejudice all pending motions pertaining to the original complaint.”).

Accordingly, it is hereby

ORDERED that the defendant’s motion to dismiss [Dkt. No. 11] is **DENIED WITHOUT PREJUDICE** as moot. It is further **ORDERED** that the Court’s Minute Order of June 27, 2011 is **VACATED IN PART**, to the extent it ordered plaintiff to respond to a motion that was moot. It is further **ORDERED** that defendant shall file a motion to dismiss the amended complaint, if appropriate, by July 21, 2011. It is further **ORDERED** that if defendant fails to file a motion to dismiss by July 21, 2011, the Court shall issue an Initial Scheduling Order.

/s/
ELLEN SEGAL HUVELLE
United States District Judge

Date: July 7, 2011