



Tri-Lift NC Inc v. Drive Automotive Industries of America Inc

2020 | Cited 0 times | D. South Carolina | November 3, 2020

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

GREENVILLE DIVISION Tri-Lift NC, Inc.,)

Plaintiff,) C.A. No. 6:20-02712-HMH

vs.) OPINION & ORDER

Drive Automotive Industries of America,) Inc.,)

Defendant.) This matter is before the court on Plaintiff Tri-Lift NC, Inc.'s ("Tri-Lift") motion to strike and to dismiss certain affirmative defenses and counterclaims in Defendant Drive Automotive Industries of America, Inc.'s ("Drive") Answer and Counterclaims. (ECF No. 5.) After review, the court dismisses Tri-Lift's motion as moot.

“[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect.” *Young v. City of Mount Rainier*, 238 F.3d 567, 572 (4th Cir. 2001) (quoting *In re Crysen/Montenay Energy Co.*, 226 F.3d 160, 162 (2d Cir. 2000)). Therefore, a plaintiff's previous motion to dismiss becomes moot when a defendant files an amended answer and counterclaims. *Righthaven, LLC v. Eiser*, Civil Action No. 2:10-CV-3075-RMG, 2012 WL 527569, at *2 n.1 (D.S.C. Feb. 16, 2012) (unpublished) (“Upon Defendant's filing of the Second Amended Answer and Counterclaims, Defendant's Amended Answer and Counterclaims was superseded and of no legal effect.”).

In this case, Tri-Lift filed the instant motion to strike and dismiss certain affirmative defenses and counterclaims in Drive's Answer and Counterclaims on September 8, 2020. (Mot. Strike & Dismiss, ECF No. 8.) On October 26, 2020, after receiving several extensions, Drive

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filed its First Amended Answer, Affirmative Defenses, and Counterclaims pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure. (First Am. Ans. & Countercls., ECF No. 24.) Based on the foregoing, Tri-Lift's motion to dismiss is rendered moot.

1 It is therefore ORDERED that Tri-Lift's motion to dismiss, docket number 8, is dismissed as moot. IT IS SO ORDERED.



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s/Henry M. Herlong, Jr. Senior United States District Judge Greenville, South Carolina November 3, 2020

1 If so desired, Tri-Lift may file a new motion to dismiss within the time frame allotted by the Federal Rules of Civil Procedure.

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