



Redmon v. FlexSol Packaging Corporation

2019 | Cited 0 times | W.D. North Carolina | December 17, 2019

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION CIVIL ACTION NO. 5:19-CV-00124-KDB-DSC

THIS MATTER is before the Court both filed November 22, 2019.

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule twenty-one days after serving the pleading, Fed. R. Civ. P. 15(a)(1) service of a motion under Rule 12(b) Id.

Although the Fourth Circuit has not addressed the issue, District Courts in this Circuit have held that an extension of time to respond to a motion to dismiss extends the time to amend as a matter of course. See *Superior Performers, Inc. v. Phelps*, 2015 WL 13650060, *1 (M.D.N.C. May 15, 2015) quoting *Hurd v. NDL, Inc.*, 2012 WL 642425, at *1 (D. Md. Feb. 27, 2012) REGGIE REDMON,)

Plaintiff,) v.)

ORDER FLEXSOL PACKAGING CORPORATION,

Defendant.) filed her amended complaint 31 days after the defendants filed their motion to dismiss under Rule 12(b)(6). However, because [she] requested and was granted an extension of time to file her response, the court will consider the amended complaint timely and therefore permitted as a matter of course *Jackson v. Merscorp, Inc.*, 2013 WL 12190523, *1 (M.D.N.C May 20, 2013) (same);

Plaintiff filed his Amended Complaint within the extended time frame for responding to Defendant Motions. See Text-Only Order entered November 25, 2019. Accordingly, the amendment is as a matter of course.

It is well settled that an amended pleading supersedes the original pleading and that motions directed at superseded pleadings are to be denied as moot. *Young v. City of Mount Ranier*, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); *Turner v. Kight*, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).



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IT IS THEREFORE ORDERED that: 1. administratively DENIED as moot
without prejudice.

2. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel, and to the Honorable Kenneth D. Bell. SO ORDERED.

Signed: December 17, 2019

