

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

ACCIDENT INSURANCE COMPANY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 15-00306-B
	)	
GREG KENNEDY BUILDER, INC.,	)	
<i>et al.</i> ,	)	
	)	
Defendants.	)	

ORDER

This action is before the Court on Defendants' Joint Motion to Dismiss or For Stay Action (Doc. 14) and Defendant's Motion to Amend Deadlines Set in Order (Doc. 17). In the original complaint, Plaintiff requested a declaration that it owes no duty to indemnify Defendants for any damages that may be awarded against Defendants in an underlying state court action. (Doc. 1). After Defendants filed a motion seeking the dismissal of Plaintiff's complaint, Plaintiff filed an amended complaint seeking a declaration that it owes no duty to either defend Defendants in the underlying civil action, nor indemnify Defendants for any damages that may be awarded in the underlying action. (Docs. 14, 16).

Because Plaintiff's amended complaint is now the operative pleading in this action; Defendants' motion to dismiss is **moot**. Pintando v. Miami-Dade Housing Agency, 501 F.3d 1241, 1243 (11th

Cir. 2007). ("As a general matter, an amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader's averments against his adversary.") (quoting Dresdner Bank AG, Dresdner Bank AG in Hamburg v. M/V Olympia Voyager, 463 F. 3d 1210, 1215 (11th Cir. 2006)) (internal quotation marks omitted); see De Sisto College, Inc. v. Line, 888 F.2d 755, 757-58 (11th Cir. 1989) (acknowledging that the defendant's motion to dismiss the first amended complaint was moot because the plaintiff filed a second amended complaint); Meterlogic, Inc. v. Copier Solutions, Inc., 185 F. Supp. 2d 1292, 1297 n.4 (S.D. Fla. 2002) (noting that the plaintiff's filing of an amended complaint "rendered moot the parties' previous pleadings and the defendants' summary judgment and Daubert motions").

Accordingly, for the reasons set forth herein, Defendants' motions are **denied** as moot.

**DONE** this **20th** day of **August, 2015**.

/s/ SONJA F. BIVINS  
**UNITED STATES MAGISTRATE JUDGE**