

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

HOOPER W. MATTHEWS, III, *et al.*, :
 :
 Plaintiffs, :
 :
 vs. : CIVIL ACTION NO. 17-00062-B
 :
 ANKOR ENERGY LLC, *et al.*, :
 :
 Defendants. :

ORDER

This matter is before the Court on Defendants' Motions to Dismiss (Docs. 10, 11), and Plaintiff's Unopposed Motion to Amend Complaint. (Doc. 15). Upon consideration, Plaintiff's motion to amend the complaint is **GRANTED**, and the Clerk is **DIRECTED** to docket Plaintiff's First Amended Complaint attached to the motion to amend. (Doc. 15-1). Defendants' Motions to Dismiss (Docs. 10, 11) are **DENIED** as moot.

Rule 15(a) of the Federal Rules of Civil Procedure governs the amendments of pleadings before trial. Rule 15(a) states that a party "may amend its pleading once as a matter of course" within 21 days after serving the pleading, or, if the pleading is one in which a responsive pleading is required, within 21 days after service of a responsive pleading or a motion under Rule 12(b), (e), or (f), whichever is earlier. Fed. R. Civ. P. 15(a)(1). "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2).

The decision whether to grant leave to amend a complaint is within the sole discretion of the district court. Redman Home Builders Co. v. Lewis, 513 F. Supp. 2d 1299, 1313 (S.D. Ala. 2007) (citing Laurie v. Alabama Ct. of Crim. App., 256 F.3d 1266, 1274 (11th Cir. 2001)). However, Rule 15(a) tempers the court's discretion by directing that "leave shall be freely given when justice so requires." Id. (citing Bryant v. Dupree, 252 F.3d 1161, 1163 (11th Cir. 2001)). In the instant action, Plaintiffs assert that they seek to amend their complaint in order to add more factual and jurisdictional allegations, and that counsel for Defendants do not oppose their request. Accordingly, the undersigned finds that under the circumstances, Plaintiffs' unopposed motion to amend is due to be **GRANTED**.

Having granted Plaintiffs permission to file their amended complaint, Defendants' Motions to Dismiss (Docs. 10, 11) are rendered moot and, accordingly, are **DENIED as moot**. Pintando v. Miami-Dade Housing Agency, 501 F. 3d 1241, 1243 (11th Cir. 2007) ("As a general matter, [a]n 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)) (quotation marks omitted); see also Meterlogic, Inc. v. Copier Solutions, Inc., 185 F. Supp. 2d 1292, 1297 (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.").

DONE this the **1st** day of **May, 2017**.

/s/ SONJA F. BIVINS
UNITED STATES MAGISTRATE JUDGE