

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DANIEL A. BERNATH,

Plaintiff,

v.

Case No: 2:15-cv-358-FtM-99CM

MARK CAMERON SEAVEY,

Defendant.

---

**ORDER**<sup>1</sup>

This matter comes before the Court on review of the file. On June 16, 2015, *pro se* Plaintiff Daniel A. Bernath initiated this copyright infringement action against Defendant Mark Cameron Seavey. ([Doc. #1](#)). Defendant then filed an Answer ([Doc. #10](#)). Eight days later, however, Plaintiff filed a First Amended Complaint under [Rule 15 of the Federal Rules of Civil Procedure](#). ([Doc. #20](#)). That same day, he simultaneously filed three motions to strike Defendant's Answer and counterclaims: (1) Notice of Motion and Motion to Strike Answer and/or Exhibits of Mark C. Seavey ([Doc. #23](#)); (2) Notice of Motion and Motion to Strike Answer of Cross Complainant Mark C. Seavey ([Doc. #24](#)); and (3) Notice of Motion and Motion to Strike Complaint of Cross Complainant Mark C. Seavey ([Doc. #25](#)). On July 24, 2015, Defendant filed an Answer to the First Amended Complaint ([Doc. #31](#)).

---

<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

The First Amended Complaint is the operative pleading in this case. See [Malowney v. Fed. Collection Deposit Grp., 193 F.3d 1342 n.1 \(11th Cir. 1999\)](#) (noting, "[a]n amended complaint supersedes an original complaint"). As a result, Defendant's answer to the original complaint has been displaced by its subsequent Answer to the Amended Complaint. ([Doc. #31](#)). Consequently, Plaintiff's three motions to strike the original answer ([Doc. #23](#), [Doc. #24](#), & [Doc. #25](#)) are denied as moot.

Accordingly, it is now

**ORDERED:**

- (1) Plaintiff Daniel A. Bernath's Notice of Motion and Motion to Strike Answer and/or Exhibits of Mark C. Seavey ([Doc. #23](#)) is **DENIED as moot**.
- (2) Plaintiff Daniel A. Bernath's Notice of Motion and Motion to Strike Answer of Cross Complainant Mark C. Seavey ([Doc. #24](#)) is **DENIED as moot**.
- (3) Plaintiff Daniel A. Bernath's Notice of Motion and Motion to Strike Complaint of Cross Complainant Mark C. Seavey ([Doc. #25](#)) is **DENIED as moot**.

**DONE** and **ORDERED** in Fort Myers, Florida this 17th day of August, 2015.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record