

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

PATRICIA KENNEDY, individually

Plaintiff,

v.

Case No: 2:16-cv-578-FtM-99CM

REGENCY REALTY GROUP, INC.,  
CHINA GOURMET GROUP, INC.,  
SALON BELLEZZA, INC. and IL  
PRIMO PIZZA & WINGS, INC.,

Defendants.

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

This matter comes before the Court on Defendant Regency Realty Group, Inc.'s Motion to Dismiss ([Doc. #16](#)) filed on September 2, 2016 and Defendant Il Primo Pizza & Wings, Inc.'s Motion to Dismiss ([Doc. #20](#)) filed on September 13, 2016. Plaintiff has since filed an Amended Complaint on September 15, 2016. ([Doc. #23](#)).

Rule 15(a) of the Federal Rules of Civil Procedure provides, in relevant part, that "[a] party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." [Fed. R. Civ. P. 15\(a\)\(1\)](#). Upon satisfaction of one of the above conditions, the plaintiff's right to amend once is absolute.

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<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.

In this case, Plaintiff filed the Amended Complaint within 21 days after service of Defendant's motion under Rule 12(b)(6). Accordingly, Plaintiff's amended pleading is properly before the Court. And it is well settled that an amended pleading supersedes the original, and motions directed at superseded pleadings must be denied as moot. See [Malowney v. Fed. Collection Deposit Grp.](#), 193 F.3d 1342, 1345 n.1 (11th Cir. 1999) (noting, "[a]n amended complaint supersedes an original complaint" (citation omitted)). Consequently, the Court denies Defendants' pending Motions to Dismiss.<sup>2</sup>

Accordingly, it is now

**ORDERED:**

Defendant Regency Realty Group, Inc.'s Motion to Dismiss ([Doc. #16](#)) and Defendant II Primo Pizza & Wings, Inc.'s Motion to Dismiss ([Doc. #20](#)) are **DENIED as moot**.

**DONE** and **ORDERED** in Fort Myers, Florida this 16th day of September, 2016.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record

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<sup>2</sup> The Court would like to remind parties that they are held to their obligations outlined within the ADA Title III Scheduling Order issued on August 23, 2016. ([Doc. #12](#)).