

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JESSICA VELTRE,

Plaintiff,

v.

Case No. 3:15-cv-1102-J-32JBT

SLIDERS SEASIDE GRILL, INC.,

Defendant.

ORDER

THIS CAUSE is before the Court on Defendant Sliders Seaside Grill, Inc.'s Motion to Dismiss Plaintiff's Complaint (Doc. 4), filed on October 9, 2015, and the Report and Recommendation by the assigned United States Magistrate Judge (Doc. 14), filed on January 26, 2016. Defendant filed an Answer, Affirmative Defenses, and Counterclaim on February 8, 2016. (Doc. 15.)

"A defendant is not required to file an answer until [the] court disposes of the motion to dismiss." Smith v. Bank of America, N.A., No. 2:11-cv-676-FtM-29DNF, 2014 WL 897032, at *9 (M.D. Fla. Mar. 6, 2014) (citing Lockwood v. Beasley, 211 F. App'x 873 (11th Cir. 2006)). Where, as here, an Answer was filed prior to the resolution of the motion to dismiss, the motion becomes moot. See id. ("An Answer filed contemporaneously with the filing of a Motion to Dismiss renders the motion moot and makes it procedurally impossible for the Court to rule on the motion to dismiss." (quotation marks omitted)); Zucco Partners, LLC v. Findwhat.com, Nos. 2:05-cv-201-FtM-29DNF, 2:05-cv-213-FtM-29DNF, 2:05-cv-233-FtM-29DNF, 2:15-cv-236-FtM-

29DNF, 2:05-cv-271-FtM-29DNF, 2005 WL 5921170, at *1 n.2 (M.D. Fla. July 27, 2005) (denying as moot defendants' motions to dismiss in light of answers filed by defendants).

Accordingly, it is hereby

ORDERED:

1. Defendant's Motion to Dismiss (Doc. 4) is **MOOT**.
2. The Clerk is directed to terminate the Report and Recommendation (Doc. 14).

DONE AND ORDERED in Jacksonville, Florida the 10th day of February, 2016.


TIMOTHY J. CORRIGAN
United States District Judge

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Copies:

Honorable Joel B. Toomey
United States Magistrate Judge

Counsel of record