

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 12-61577-Civ-SCOLA**

JAMIE DANIELS,

Plaintiff,

vs.

UNITED AUTOMOBILE, AEROSPACE,  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA, AFL-CIO,  
LOCAL 2278, et al.,

Defendants.

---

**ORDER DENYING MOTIONS TO DISMISS AS MOOT**

THIS MATTER is before the Court on Defendants' Motions to Dismiss [ECF Nos. 7, 8], filed on September 10, 2012. Subsequently, on September 21, 2012, the Plaintiff filed a First Amended Complaint [ECF No. 11].


Federal Rule of Civil Procedure 15(a) allows a party to amend the pleadings "once as a matter of course" if done within "21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b)," whichever comes first. Fed. R. Civ. P. 15(a)(1)(B). "For purposes of this Rule, a motion to dismiss is not a responsive pleading." *Williams v. Bd. of Regents of the Univ. Sys. of Ga.*, 477 F.3d 1282, 1291 (11th Cir. 2007).

Here, the Plaintiff filed the First Amended Complaint eleven days after Defendants filed their separate Motions to Dismiss. Therefore, Plaintiff's amendment must be allowed as a matter of course, and does not require permission from the Court. "When the plaintiff has the right to file an amended complaint *as a matter of course*," which is the case here, "the plain language of Rule 15(a) shows that the court lacks the discretion to reject the amended complaint[.]" *See id.* at 1293 n.6 (emphasis original).

Further, because Plaintiff's First Amended Complaint supersedes the prior Complaint, Defendant's Motion to Dismiss the original Complaint is now moot. *See Taylor v. Alabama*, 275 F. App'x 836, 838 (Cir. 11th 2008) (noting that when "Plaintiffs amended their complaint," the "Defendants' motion to dismiss became moot").

Therefore, it is hereby **ORDERED and ADJUDGED** that the Defendants' two Motions to Dismiss [ECF Nos. 7, 8] are **DENIED AS MOOT**, in light of the newly-filed First Amended Complaint. The Defendants shall file a response to the First Amended Complaint no later than **October 12, 2012**.

**DONE and ORDERED** in chambers, at Miami, Florida September 24, 2012.

  
**ROBERT N. SCOLA, JR.**  
**UNITED STATES DISTRICT JUDGE**

Copies to:  
*U.S. Magistrate Judge*  
*Counsel of record*