

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

LANCE W. PRINE

CIVIL ACTION

VERSUS

NO. 18-10714

LGS LOGISTICS, LLC, *et al.*

SECTION M (5)

**ORDER & REASONS**

Before the Court is a motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure filed by defendants Gary Smith, Glen Smith, and Mid-Gulf Recovery Services, LLC (collectively “Defendants”),<sup>1</sup> to which plaintiff Lance W. Prine (“Prine”) responds in opposition.<sup>2</sup> Prior to filing his memorandum in opposition, Prine filed an amended, restated, and superseding complaint pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure.<sup>3</sup> “An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.” *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994). “[M]any district courts ... routinely deny as moot motions to dismiss that are filed prior to an amendment of a complaint.” *Jefferson Cmty. Health Care Ctrs., Inc. v. Jefferson Par. Gov’t*, 2016 WL 4429953, at \*2 (E.D. La. Aug. 22, 2016) (collecting cases).

Accordingly, IT IS ORDERED that Defendants’ motion to dismiss is DENIED as moot, without prejudice to their filing a new motion to dismiss directed at Prine’s amended, restated, and superseding complaint.


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<sup>1</sup> R. Doc. 4.

<sup>2</sup> R. Doc. 8.

<sup>3</sup> R. Doc. 7.

New Orleans, Louisiana, this 8<sup>th</sup> day of February, 2019.

  
BARRY W. ASHE  
UNITED STATES DISTRICT JUDGE