

MEMO ENDORSED

333 EARLE OVINGTON BLVD., STE 402
UNIONDALE, NEW YORK 11553
T: 516-203-7600
F: 516-282-7878

August 29, 2024

Via ECF

Hon. Dale E. Ho
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Application GRANTED. Defendant's motion to dismiss is denied as moot without prejudice to renewing its motion as to Plaintiff's amended pleadings. SO ORDERED. The Clerk of Court is respectfully requested to terminate ECF No. 15.

Re: *Theodore Parisienne v. Vox Media, LLC*
Case No: 1:24-cv-04507-DEH

A handwritten signature in blue ink, appearing to read 'Dale E. Ho'.

Dale E. Ho
United States District Judge
New York, New York
Dated: August 30, 2024

Dear Judge Ho:

We are the attorneys for Plaintiff Theodore Parisienne (“Plaintiff”) in this matter and write to advise the Court that Plaintiff, in response to the Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b) filed by Defendant Vox Media, LLC (“Defendant”) on August 20, 2024 (Dkt. Nos. 15-17), has filed a First Amended Complaint as of right under Fed. R. Civ. P. 15(a)(1)(B). *See Ginorio v. Kenco Realty Management Corp.*, 2022 WL 825493, at *2 (S.D.N.Y. March 18, 2022) (holding that plaintiff was not required to move for leave to amend the complaint because Fed. R. Civ. P. 15(a)(1) gave plaintiff the right to amend as a matter of course within 21 days after service of a motion under Rule 12(b)).

By virtue of the filing of the Plaintiff’s First Amended Complaint, Plaintiff respectfully requests that the Defendant’s motion be denied as the filing of such amended pleading effectively renders moot the Defendant’s motion to dismiss. *See Env’t Sols. Assocs. Grp., LLC v. Conopoco, Inc.*, 2021 WL 2075586, at *1 (S.D.N.Y. May 24, 2021) (“Where a plaintiff seeks to amend its complaint while a motion to dismiss is pending, a court ‘may either deny the pending motion to dismiss as moot or consider the merits of the motion, analyzing the facts as alleged in the amended pleading.’”) (quoting *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303 (2d Cir. 2020)). *See generally*, cases in which the Court has denied the pending motion as moot: *Gentile v. Crededio*, 2022 WL 2392079, at *3 (S.D.N.Y. July 1, 2022) (motion to dismiss denied as moot); *In re Madison Asset LLC*, 2021 WL 1894032, at *3 (S.D.N.Y. May 11, 2021) (same); *Env’t Sols. Assocs. Grp., LLC*, 2021 WL 2075586, at *3 (same).

Thank you for your consideration of this request.

Respectfully submitted,

/s/ Renee J. Aragona
Renee J. Aragona
Counsel for Plaintiff

cc: via ECF: Shane M. Rumbaugh, Esq.
Counsel for Defendant