

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11cv71**

SYNOVUS BANK,

Plaintiff,

v.

**BOKKE, IV, LLC, JAMES ELEY,
JOHN KELLY SR., LAURA KELLY,
MARK P. KELLY, SIMON
MANNION, MARLON NIEMAND,
and JOHN G. RECKENBEIL,**

Defendants.

ORDER

In their Answer to Plaintiff's Complaint, Defendants asserted Counterclaims and a Third Party Complaint. Plaintiff then moved to strike the Answer and Third Party Complaint [# 17] and moved to dismiss the Counterclaims [# 19]. Within twenty-one days of the filing of the Motion to Dismiss, Defendants filed an Amended Answer, which they were allowed to do as a matter of course. See Fed. R. Civ. P. 15(a). The Amended Answer, however, supercedes the original Answer, Counterclaims, and Third Party Complaint. Accordingly, the Court **DENIES as moot** the Motion to Dismiss Counterclaims [# 19] and Motion to Strike Answer to Complaint [# 17].

Signed: August 2, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

