

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL CASE NO. 3:12CV194-MOC-DSC**

<b>AMERICAN &amp; EFIRD, LLC,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>PITTSFIELD PLASTICS ENGINEERING, INC.,</b>	)	
	)	
<b>Defendant/Third Party Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>METRO PLASTICS, INC. and SOLOMON CAPITAL, LLC, and CSS INDUSTRIES, INC.</b>	)	
	)	
<b>Third Party Defendants.</b>	)	
<hr style="border: 0.5px solid black;"/>		

**MEMORANDUM AND ORDER**

**THIS MATTER** is before the Court on “Third-Party Defendant CSS Industries, Inc.’s Motion to Dismiss,” Doc. 15, and the accompanying Memorandum in Support, Doc. 15-1, filed June 22, 2012.

This matter was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1).

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to “amend its pleading once as a matter of course,” if done within twenty-one (21) days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or, “if the pleading is one to which a responsive pleading is required,” a party may amend once as a matter of course, provided that it does so within “21 days after service of a responsive pleading or 21 days after

service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that “leave [to amend the pleadings] shall be freely given where justice so requires.” Fed.R.Civ.P. 15(a).

Defendant/Third Party Plaintiff Pittsfield Plastics Engineering, Inc. filed an Amended Third Party Complaint, Doc. 18, on July 11, 2012, approximately nineteen (19) days after receiving “Third-Party Defendant CSS Industries, Inc.’s Motion to Dismiss,” Doc. 15. Therefore, they may amend their pleading as a matter of course under Rule 15(a)(1)(B).


It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

**IT IS THEREFORE ORDERED** that:

1. “Third-Party Defendant CSS Industries, Inc.’s Motion to Dismiss,” Doc. 15, is administratively DENIED as moot without prejudice.
2. The Clerk is directed to send copies of this Memorandum and Order to counsel for the parties; and to the Honorable Max O. Cogburn, Jr.

**SO ORDERED.**

Signed: July 12, 2012

  
\_\_\_\_\_  
David S. Cayer  
United States Magistrate Judge

