

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:17-CV-00474-FDW-DSC

NILOUFAR SANIRI,

Plaintiff,

v.

CHRISTENBURY EYE CENTER, P.A.,
JONATHAN CHRISTENBURY, M.D., and
ELLIE PENA-BENARROCH,

Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT**

THIS MATTER is before the Court on Defendants' "Partial Motion to Dismiss" (document #10) filed September 11, 2017, and "Plaintiff's Motion for Leave to File Amended Complaint" (document #15) filed September 25, 2017. 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 shall be freely given "when justice so requires." *Id.*

Defendants filed their Motion to Dismiss on September 11, 2017. Plaintiff filed her Motion to Amend on September 25, 2017, which is within twenty-one (21) days of the filing of the Motion to Dismiss. Therefore, she may amend her pleading as a matter of course under Rule 15(a)(1)(B).

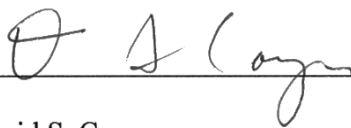
It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).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. “Plaintiff’s Motion for Leave to File Amended Complaint” (document #15) is **GRANTED**. Plaintiff shall file her Amended Complaint within seven (7) days of this Order.
2. Defendants’ “Partial Motion to Dismiss” (document #10) is administratively **DENIED** as moot without prejudice.
3. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: September 26, 2017



David S. Cayer
United States Magistrate Judge

