

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:16-CV-153-RLV-DCK**

SIMPSON PERFORMANCE PRODUCTS, INC.,)
)
)
Plaintiff,)
)
v.)
)
NECKSGEN INC.,)
)
Defendant.)

**ORDER AND
RECOMMENDATION**

THIS MATTER IS BEFORE THE COURT on Defendant’s “Unopposed Motion For An Extension Of Time To Answer Or Otherwise Move” (Document No. 14) filed January 3, 2017. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, and noting consent of Plaintiff’s counsel, the undersigned will grant the motion.

Based on the filing of Plaintiff’s “Amended Complaint” (Document No. 12) on December 28, 2016, the undersigned will also respectfully recommend that “Defendant’s Motion To Dismiss...” (Document No. 11) filed on December 14, 2016, be denied as moot. It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (“The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect.”).

IT IS, THEREFORE, ORDERED that Defendant’s “Unopposed Motion For An Extension Of Time To Answer Or Otherwise Move” (Document No. 14) is **GRANTED**.

Defendant shall have up to and including **January 25, 2017** to answer or otherwise respond to Plaintiff's Amended Complaint (Document No. 12).

IT IS RECOMMENDED that "Defendant's Motion To Dismiss..." (Document No. 11) be **DENIED AS MOOT**.

TIME FOR OBJECTIONS

The parties are hereby advised that pursuant to 28 U.S.C. § 636(b)(1)(C), and Rule 72 of the Federal Rules of Civil Procedure, written objections to the proposed findings of fact, conclusions of law, and recommendation contained herein may be filed within **fourteen (14) days** of service of same. Responses to objections may be filed within fourteen (14) days after service of the objections. Fed.R.Civ.P. 72(b)(2). Failure to file objections to this Memorandum and Recommendation with the District Court constitutes a waiver of the right to *de novo* review by the District Court. Diamond v. Colonial Life, 416 F.3d 310, 315-16 (4th Cir. 2005). Moreover, failure to file timely objections will preclude the parties from raising such objections on appeal. Diamond, 416 F.3d at 316; Page v. Lee, 337 F.3d 411, 416 n.3 (4th Cir. 2003); Snyder v. Ridenhour, 889 F.2d 1363, 1365 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 147-48 (1985), reh'g denied, 474 U.S. 1111 (1986).

SO ORDERED AND RECOMMENDED.

Signed: January 3, 2017



David C. Keesler
United States Magistrate Judge

