

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:17-CV-00154-DSC**

HARTFORD FIRE INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
RLJ EXPRESS, LLC,)	
)	
Defendant.)	

THIS MATTER is before the Court on Third Party Defendant A & A Machinery Moving, Inc.’s “Motion to Dismiss [Third Party Complaint]” (document #18) filed December 11, 2017, and Third Party Defendant A & A Machinery Moving, Inc.’s “Motion to Dismiss [Amended Third Party Complaint]” (document #31) filed January 9, 2018.

The parties have consented to Magistrate Judge jurisdiction under 28 U.S.C. § 636 (c). These Motions are now ripe for consideration.

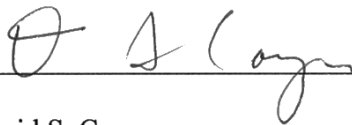
On December 27, 2017, Defendant filed an Amended Third Party Complaint as a matter of right. Fed. R. Civ. P. 15(a)(1)(B)(party may amend once as a matter of course, provided that it does so within “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier”). Accordingly, the Court will deny as moot Third Party Defendant A & A Machinery Moving, Inc.’s “Motion to Dismiss [Third Party Complaint]” (document #18). See Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect and motions directed at superseded pleadings are to be denied as moot).

For the reasons stated in Defendant/Third Party Plaintiff's "Memorandum ... in Opposition ..." (document #35), Third Party Defendant A & A Machinery Moving, Inc.'s "Motion to Dismiss [Amended Third Party Complaint]" (document #31) is **DENIED WITHOUT PREJUDICE** to its right to renew those arguments following the close of discovery.

The Clerk is directed to send copies of this Order to counsel of record.

SO ORDERED.

Signed: February 20, 2018



David S. Cayer
United States Magistrate Judge

