

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>DANIEL GARCIA,</b>	:	<b>CIVIL ACTION NO. 1:07-CV-1886</b>
<b>Plaintiff/Consolidated</b>	:	
<b>Defendant</b>	:	<b>(CONSOLIDATED)</b>
	:	
<b>and</b>	:	<b>(Judge Conner)</b>
	:	
<b>PRIME, INC.</b>	:	
<b>Consolidated Defendant</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>DAWN CUMMINGS, et al.,</b>	:	
<b>Defendants/Consolidated</b>	:	
<b>Plaintiffs</b>	:	
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<b>DAWN CUMMINGS, et al.,</b>	:	
<b>Third-Party Plaintiffs</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>ROGER'S TOWING, INC.,</b>	:	
<b>Third-Party Defendant</b>	:	

**ORDER**

AND NOW, this 6th day of January, 2009, upon consideration of the pending motion to dismiss (Doc. 17), filed by third-party defendant Rogers Towing, Inc. (“Rogers”) on May 23, 2008, and which seeks to dismiss the third-party complaint (Doc. 14) filed by third-party plaintiffs Dawn Cummings and Black Horse Carriers, Inc. (collectively “third-party plaintiffs”), and it appearing that third-party plaintiffs amended their third-party complaint on June 2, 2008,<sup>1</sup> (see Doc. 23); see also FED. R.

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<sup>1</sup> At the time that third-party plaintiffs amended the third-party complaint, Rogers’ motion to dismiss (Doc. 17) was fully briefed and ripe for disposition.

Civ. P. 15(a) (allowing a party to “amend its pleading once as a matter of course . . . before being served with a responsive pleading”), and that Rogers filed a motion (Doc. 25) to dismiss the amended third-party complaint on June 24, 2008, and the court recognizing that an “amended complaint supersedes the original version,” Snyder v. Pascack Valley Hosp., 303 F.3d 271, 276 (3d Cir. 2002); see also 6 CHARLES A. WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 1476, at 556 (2d ed. 1990), it is hereby ORDERED that:

1. Rogers’ motion (Doc. 17) to dismiss the third-party complaint (Doc. 14) is DENIED as moot. Third-party plaintiffs’ third-party complaint (Doc. 14) is superseded by the amended third-party complaint (Doc. 23). See Snyder, 303 F.3d at 276.
2. The court may consider the arguments set forth in Rogers’ motion (Doc. 17) to dismiss the third-party complaint, as well as third-party plaintiffs’ brief in opposition thereto (Doc. 20), in arriving at its disposition of Rogers’ motion (Doc. 25) to dismiss the amended third-party complaint (Doc. 23).

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge