

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

<b>DAILY EXPRESS, INC.,</b>	:	<b>No. 1:10-cv-1168</b>
	:	
<b>Plaintiff,</b>	:	
	:	<b>(Chief Judge Kane)</b>
<b>v.</b>	:	
	:	
<b>MAVERICK TRANSPORTATION, LLC,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

On June 22, 2010, Defendant filed a motion to dismiss Plaintiff’s complaint. (Doc. No. 3.) On July 12, 2010, Plaintiff filed an amended complaint pursuant to Federal Rule of Civil Procedure 15(a), which allows a party to amend its pleading “once as a matter of course within . . . 21 days after service of a motion under Rule 12(b) . . . .” Fed. R. Civ. P. 15(a)(1)(B).

Because Defendant’s motion to dismiss addresses the original complaint rather than Plaintiff’s amended complaint, it is rendered moot by the filing of the amended complaint. See Pure Country, Inc. v. Sigma Chi Fraternity, 312 F.3d 952, 956 (8th Cir. 2002) (“If anything, [Plaintiff’s] motion to amend the complaint rendered moot [Defendant’s] motion to dismiss the original complaint.”); Standard Chlorine of Del., Inc. v. Sinibaldi, 821 F. Supp. 232, 239-40 (D. Del. 1992) (finding that an amended complaint rendered the defendants’ motion to dismiss the original complaint moot).

**AND NOW**, this 9<sup>th</sup> day of August 2010, upon consideration of the above, **IT IS**

**HEREBY ORDERED** that Defendant's motion to dismiss (Doc. No. 3) is **MOOT**. Defendant is given leave to re-file its motion to dismiss in contemplation of the amended complaint.

S/ Yvette Kane  
Yvette Kane, Chief Judge  
United States District Court  
Middle District of Pennsylvania