

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

HOLDT ANDREWS, individually and on
behalf of others similarly situated,

Plaintiffs,

v.

ASSERTIVE COLLECTIONS, INC.,

Defendant.

CIVIL ACTION NO. 3:09-CV-0586

(JUDGE CAPUTO)

MEMORANDUM ORDER

Presently before the Court is a motion to dismiss by Defendant Assertive Collections, Inc., filed June 22, 2009 (Doc. 11) and a June 26, 2009, filing by Plaintiff Holdt Andrews entitled "Response to Defendant's Motion to Dismiss" (Doc. 14).

In his "Response," Plaintiff requests that the Court file an attached amended complaint and dismiss Defendant's motion to dismiss as moot. The Court construes the filing as a motion for leave to amend his original complaint. Pursuant to Federal Rule of Civil Procedure 15(a), a party may amend his pleading once as a matter of course at any time before a responsive pleading is served. No responsive pleading has yet been served. See *Centifanti v. Nix*, 865 F.2d 1422, 1431 n. 9 (3d Cir. 1989) (a motion to dismiss does not constitute a responsive pleading under Rule 15(a)). The Court therefore grants Plaintiff's motion for leave to amend and denies Defendant's motion to dismiss as moot.

NOW, this 22nd day of July, 2009, **IT IS HEREBY ORDERED THAT:**

(1) Plaintiff Holdt Andrews' motion for leave to amend his complaint (Doc. 14) is

GRANTED.

- (2) Defendant Assertive Collections, Inc.'s Motion to Dismiss (Doc. 11) is **DENIED as moot.**
- (3) The Clerk of Court shall detach and file the amended complaint that is attached to Plaintiff's "Response to Defendant's Motion to Dismiss" (Doc. 14).

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge