## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

## CHARLESTON DIVISION

ALVIN MESSINGER

Plaintiff,

v.

CIVIL ACTION NO. 2:18-cv-00912

WINDOW WORLD, INC.,

Defendant.

## MEMORANDUM OPINION AND ORDER

Pending before the court is Defendant Window World, Inc.'s Motion to Dismiss [ECF No. 8]. For the reasons stated below, the Motion is **DENIED** as moot.

On June 5, 2018, Defendant Window World, Inc. moved to dismiss the plaintiff's original Complaint [ECF No. 1-1]. On August 1, 2018, the court granted the plaintiff's Motion to Amend Complaint [ECF No. 26] and directed the Clerk to file the Amended Complaint [ECF No. 26-1] as the operative pleading in the matter.

"As a general rule, 'an amended pleading ordinarily supersedes the original and renders it of no legal effect." Young v. City of Mt. Ranier, 238 F.3d 567, 572 (4th Cir. 2001) (quoting In re Crysen/Montenay Energy Co., 226 F.3d 160, 162 (2d Cir. 2000)). When a plaintiff amends a complaint while a motion to dismiss is pending, a court may deny the motion as moot. See Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint because it was

superseded by the amended complaint); see also Sennott v. Adams, No. 6:13-cv-02813-GRA, 2014 WL 2434745, at \*3 (D.S.C. May 29, 2014) ("Thus, a defendant's previous motion to dismiss is rendered moot when a plaintiff files an amended complaint."); Skibbe v. Accredited Home Lenders, Inc., No. 2:08-cv-01393, 2014 WL 2117088, at \*3 (S.D. W. Va. May 21, 2014) (denying as moot defendants' renewed motion to dismiss where "[t]he Third Amended Complaint superseded the Amended Complaint and the Second Amended Complaint"). Here, plaintiff's amended pleading superseded its original Complaint. Accordingly, Defendant's Motion to Dismiss [ECF No. 8] is **DENIED as moot**. The court **DIRECTS** the Clerk to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party.

ENTER: October 5, 2018

JØSEPH R. GOODWJA

UNITED STATES DISTRICT JUDGE