

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

TOMAS BARRERA

v.

HITACHI KOKI U.S.A., LTD., et al.

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Civil No. JFM-15-3704

**MEMORANDUM**

Plaintiff Tomas Barrera, a construction assembler, performed work for defendant Builders FirstSource, Inc. (“FirstSource”) at a manufacturing facility in Maryland. On January 3, 2013, Barrera was working at the facility using a pneumatic nail gun produced by defendant Hitachi Koki U.S.A., LTD. (“Hitachi”). In the course of Barrera’s work, the nail gun became jammed, causing a nail to fly out of the gun and strike Barrera in one of his eyes under his goggles. The nail caused significant damage to Barrera’s eye, rendering him blind in that eye.

In late 2014, Barrera filed a complaint in the District of New Jersey asserting torts claims against FirstSource and Hitachi. The case was then transferred, by consent order, from the District of New Jersey to this Court. (ECF No. 15). Hitachi has filed a motion to dismiss Barrera’s original complaint. (ECF No. 18). Also pending is a motion to file a First Amended Complaint. (ECF No. 29). I now grant plaintiff’s motion to file a First Amended Complaint and deny as moot defendant’s motion to dismiss.

First, Federal Rule of Civil Procedure 15(a)(2) allows a party to amend its pleading with the opposing party’s written consent or the court’s leave. Defendant Hitachi has given its consent to Barrera’s motion to file a First Amended Complaint, (*see* ECF No. 30, p. 1); and accordingly, I grant Barrera’s motion.

Second, Hitachi's motion to dismiss (ECF No. 18) is moot. "The general rule . . . is that an amended pleading supercedes the original pleading, rendering the original pleading of no effect." *Young v. City of Mount Ranier*, 238 F.3d 567, 573 (4th Cir. 2001). Here, because the original complaint, to which defendant's motion to dismiss relates, is no longer in effect, defendant's motion to dismiss is denied as moot.<sup>1</sup> See *A Love of Food I, LLC v. Maoz Vegetarian USA, Inc.*, 795 F. Supp. 2d 365, 367 (D. Md. 2011) (denying a motion to dismiss a complaint as moot after an amended complaint was filed).

### **CONCLUSION**

For the stated reasons, Barrera's motion to file a First Amended Complaint (ECF No. 29) is granted and Hitachi's motion to dismiss (ECF No. 18) is denied as moot. A separate order follows.

2/8/2016  
Date

/s/  
J. Frederick Motz  
United States District Judge

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<sup>1</sup> Of course, this ruling is without prejudice to defendants filing a motion to dismiss plaintiff's First Amended Complaint.