

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

AGUEDA ROBERTSON,

Plaintiff,

v.

No. 20-1128-SAC

METAL FINISHING CO., INC.,

Defendant.

MEMORANDUM AND ORDER

The case comes before the court on the defendant's motion for partial dismissal of the plaintiff's original complaint. ECF# 6. The plaintiff has filed an amended complaint (ECF# 10) and a response (ECF# 11) arguing that the defendant's motion to dismiss should be denied as moot. The court agrees that plaintiff's amended complaint is now the operative complaint, *see Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991), which makes the pending motion to dismiss the original complaint irrelevant. *Delaney v. Thompson*, No. 18-3037-SAC, 2019 WL 1317467, at *2 (D. Kan. Mar. 22, 2019) (citing in part *Fawzy v. Wauquiez Boats SNC*, 873 F.3d 451, 455 (4th Cir. 2017) (holding that district court "ruled on a mooted complaint, not the operative one" since plaintiff already had filed timely amended complaint). For this reason, the defendant's motion to dismiss is moot.

IT IS THEREFORE ORDERED that the defendant's motion for partial dismissal of original complaint (ECF# 6) is denied as moot.

Dated this 26th day of August, 2020, Topeka, Kansas.

/s Sam A. Crow
Sam A. Crow, U.S. District Senior Judge