

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
18 CVS 12318

VALUE HEALTH SOLUTIONS  
INC., and NAGARAJAN  
PARTHASARATHY

Plaintiffs,

v.

PHARMACEUTICAL RESEARCH  
ASSOCIATES, INC., and PRA  
HEALTH SCIENCES, INC.,

Defendants.

**ORDER DENYING PLAINTIFFS'  
MOTION TO DISMISS DEFENDANTS'  
COUNTERCLAIMS AS MOOT**

THIS MATTER is before the Court upon Plaintiffs Nagarajan Parthasarathy and Value Health Solutions Inc.'s ("Plaintiffs") Motion to Dismiss Counterclaims. ("Motion to Dismiss"; ECF No. 30.) On March 8, 2019, Plaintiffs filed the Motion to Dismiss asking the Court to dismiss counterclaims filed by Defendants in their Answer, Affirmative Defenses, and Counterclaims ("Answer and Counterclaims", ECF No. 8.) Plaintiffs did not otherwise file a responsive pleading addressing Defendants counterclaims. On March 26, 2019, Defendants filed their Amended Answer, Affirmative Defenses, and Counterclaims ("Amended Answer and Counterclaims"; ECF No. 37), which amended only Defendants' counterclaims and not their original answers or affirmative defenses. On March 27, 2019, Defendants filed a brief in opposition to Plaintiff's Motion to Dismiss, arguing that the filing of their Amended Answer and Counterclaims mooted Plaintiffs' Motion to Dismiss. (Br. in Opp., ECF No. 38, at pp. 4–6.)

THE COURT, having considered the Motion to Dismiss, and other appropriate matters of record, concludes that the Motion to Dismiss should be DENIED as moot, for the reasons set forth below.

Under North Carolina 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 or, if the pleading is one to which no responsive pleading is permitted . . . he may so amend it at any time within 30 days after it is served.” N.C. Gen. Stat. § 1A-1, Rule 15(a) (hereinafter the North Carolina Rules of Civil Procedure are referred to as the “Rule(s)”). A responsive pleading to an answer containing a counterclaim is required where the counterclaim is “denominated as such.” *Hunt v. Hunt*, 117 N.C. App. 280, 283, 450 S.E.2d 558, 560 (1994); *see also* Rule 7(a). For purposes of Rule 15(a), “a Rule 12(b)(6) motion to dismiss is not a responsive pleading” and does not terminate a pleading party’s right to amend as a matter of course. *Hardin v. York Mem’l Park*, 221 N.C. App. 317, 320, 730 S.E.2d 768, 773 (2012); *Krawiec v. Manly*, 2015 NCBC LEXIS 85, at \*4–6 (N.C. Super. Ct. Aug. 24, 2015). Furthermore, the filing of a proper amended pleading renders any argument regarding the original pleading moot. *Houston v. Tillman*, 234 N.C. App. 691, 695, 760 S.E.2d 18, 20 (2014).

Here, Defendants’ Answer and Counterclaims contained counterclaims that were properly set out and labeled, and Plaintiff was required to submit a responsive pleading to address the counterclaims. *Hunt*, 117 N.C. App. at 283, 450 S.E.2d at 560. Plaintiffs filed a Rule 12(b)(6) motion to dismiss the counterclaims contained in Defendants’ Answer and Counterclaims, but did not submit a responsive pleading.

