

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GENEVA COLLEGE; WAYNE L. HEPLER; )  
THE SENECA HARDWOOD LUMBER )  
COMPANY, INC., a Pennsylvania Corporation; )  
WLH ENTERPRISES, a Pennsylvania Sole )  
Proprietorship of Wayne L. Hepler; and CARRIE )  
E. KOLESAR; )

Plaintiffs )

v. )

Case No. 2:12-cv-00207-JFC )

KATHLEEN SEBELIUS, in her official capacity )  
as Secretary of the United States Department of )  
Health and Human Services; HILDA SOLIS, in )  
her official capacity as Secretary of the United )  
States Department of Labor; TIMOTHY )  
GEITHNER, in his official capacity as Secretary )  
of the United States Department of the Treasury; )  
UNITED STATES DEPARTMENT OF )  
HEALTH AND HUMAN SERVICES; UNITED )  
STATES DEPARTMENT OF LABOR; and )  
UNITED STATES DEPARTMENT OF THE )  
TREASURY, )

Defendants. )

**OPPOSITION TO MOTION TO DISMISS AS MOOT**

Plaintiffs file this response in opposition to Defendants’ motion to dismiss the original complaint. Plaintiffs have filed a first amended complaint in accordance with Fed. R. Civ. P. 15. For this reason Plaintiffs request that the Court deny as moot Defendants’ motion to dismiss the original complaint. *See, e.g., Zion v. Nassan*, 2011 WL 3757319, \*2 (W.D. Pa. 2011) (“The defendants were informed that the filing of the amended complaint would moot their motions to dismiss.”); *Prise v. Alderwoods Group, Inc.*, 657 F. Supp. 2d 564, 583–84 (W.D. Pa. 2009).

Respectfully submitted this 31st day of May, 2012.

s/Gregory S. Baylor

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 31, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:  
  
Eric R. Womack, Bradley P. Humphreys, and Albert W. Schollaert, Counsel for Defendants.

s/ Gregory S. Baylor