

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

YANETSI COLLIER,

Plaintiff,

v.

Case No: 2:19-cv-49-FtM-38MRM

WRIGHT NATIONAL FLOOD  
INSURANCE COMPANY,

Defendant.

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**ORDER**<sup>1</sup>

Before the Court is Defendant Wright National Flood Insurance Company's ("Wright") Motion to Dismiss Plaintiff's Florida Law Claims and Incorporated Memorandum of Law filed on February 4, 2019. ([Doc. 7](#)). Wright filed its Answer and Defenses that same day. ([Doc. 8](#)).

A motion to dismiss is improper once a responsive pleading has been filed. See [Skritch v. Thornton](#), 280 F.3d 1295, 1306 (11th Cir. 2002). Thus, "[a]n Answer filed contemporaneously with the filing of a Motion to Dismiss renders the motion moot and makes it procedurally impossible for the Court to rule on the motion to dismiss." [Smith v. Bank of Am., N.A.](#), No. 2:11-CV-676-FTM-29, 2014 WL 897032, at \*9 (M.D. Fla. Mar. 6,

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2014) (citing *Brisk v. City of Miami Beach, Fla.*, 709 F. Supp. 1146, 1147 (S.D. Fla. 1989) (internal quotation marks omitted)). Here, Wright filed its answer and affirmative defenses contemporaneously with its motion to dismiss. (Doc. 8). Therefore, the motion to dismiss will be denied as moot.

Accordingly, it is now

**ORDERED:**

Defendant Wright National Flood Insurance Company's Motion to Dismiss Plaintiff's Florida Law Claims and Incorporated Memorandum of Law (Doc. 7) is **DENIED as moot**.

**DONE** and **ORDERED** in Fort Myers, Florida this 20th day of February, 2019.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record