

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01255-REB-MEH

HILTON McCLENDON, JR,

Plaintiff,

v.

JBS USA, LLC.,

Defendant.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on October 20, 2015.

Plaintiff's [Unopposed¹] Motion to Allow Second Amended Complaint [filed October 8, 2015; docket #32] is **granted**. The Clerk of the Court is directed to file Plaintiff's Second Amended Complaint [*see* docket #32-2] as the operative complaint in the case.

In light of this order, Defendant's Partial Motion to Dismiss [filed August 28, 2015; docket #22] is **denied as moot** with leave to refile in response to the Second Amended Complaint. *See Franklin v. Kansas Dep't of Corrs.*, 160 F. App'x 730, 734 (10th Cir. 2005) ("An amended complaint supersedes the original complaint and renders the original complaint of no legal effect.") (citing *Miller v. Glanz*, 948 F. 2d 1562, 1565 (10th Cir. 1991)); *see also Robinson v. Dean Foods Co.*, No. 08-cv-01186-REB-CBS, 2009 WL 723329, at *4 (D. Colo. Mar. 18, 2009) (citation omitted) ("Generally, when an amended complaint is filed, the previous complaint is wiped out and the operative complaint is the most recently filed version.").

¹The Court's Minute Order of October 8, 2015, allowed Defendant to respond to Plaintiff's Motion on or before October 19, 2015. *See* docket #31. As Defendant did not respond, the Motion is unopposed.