

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-03086-PAB-KLM

JESSE R. GRAY,
JONATHAN VEATCH, and
DANIELLE COCHRAN, individuals on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

KNIGHT SECURITY AND PATROL, INC., a Colorado corporation, and
RYAN M. KNIGHT, an individual,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on plaintiffs' Motion to Withdraw Amended Complaint and Enter Default Against Defendants [Docket No. 18]. An amended complaint supersedes the original complaint and renders it of no legal effect. *Int'l Controls Corp. v. Vesco*, 556 F.2d 665, 668 (2d Cir. 1977). However, where service is required under Fed. R. Civ. P. 5(a), the amended complaint does not supersede the original complaint until it is served. *Id.* at 669. Rule 5(a) requires service on a party in default if a pleading asserts a new claim for relief against such party. Fed. R. Civ. P. 5(a)(2).

The amended complaint in this case added a new claim against all defendants. *Compare* Docket No. 13 at 14, ¶¶ 72-73 *with* Docket No. 1 at 13, ¶¶ 68-73. Therefore, it was required to be served in accordance with Rule 5(a). However, because the amended complaint has not been served, it has not superseded the original complaint.

Accordingly, plaintiff's motion [Docket No. 18] is granted and the amended complaint is deemed withdrawn [Docket No. 13].

DATED: February 9, 2017.