

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:17-CV-00266-RJC-DSC**

**JEFFREY PODESTA AND STREET** )  
**SEARCH, LLC,** )  
 )  
**Plaintiffs,** )  
 )  
**v.** )  
 )  
**JOHN F. HANZEL, et al.,** )  
 )  
**Defendants.** )

**ORDER**

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**THIS MATTER** is before the Court on the “Defendant Jayson Colavalla’s Motion to Dismiss for Insufficient Service of Process and Failure to State a Claim” (document # 10) filed August 21, 2017. The Court granted Plaintiff an additional ten days to respond to the Motion to Dismiss in an Order dated August 30, 2017 (document #18). On September 12, 2017, Plaintiff filed a First Amended Civil Action Complaint (document #20) as a matter of right pursuant to Rule 15(a)(1)(B). On September 19, 2017, Plaintiff filed “Plaintiffs’ Notice of Dismissal, Without Prejudice, as to All Defendants Other Than John F. Hanzel and John F. Hanzel, P.A. Attorneys at Law” (document #21).

Rule 15(a)(1) grants a party the right to “amend its pleading once as a matter of course,” if done within twenty-one (21) days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or, “if the pleading is one to which a responsive pleading is required,” a party may amend once as a matter of course, provided that it does so within “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P.

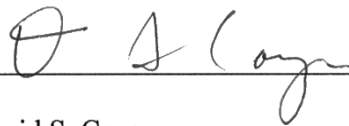
15(a)(1)(B). It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

For the above reasons, the Court orders that “Defendant Jayson Colavalla’s Motion to Dismiss...” (document #10), be administratively DENIED as moot without prejudice and further notes that pursuant to Defendants’ September 19, 2017 Notice (document #21) Defendant Jayson Colavalla has been dismissed without prejudice from this action.

The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Robert J. Conrad, Jr..

**SO ORDERED.**

Signed: September 19, 2017



David S. Cayer  
United States Magistrate Judge

