

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:23-CV-367-RJC-DCK**

JEREMY LAMOND HENDERSON,)
)
 Plaintiff,)
)
 v.)
)
 CABARRUS COUNTY SHERIFF'S)
 OFFICE, et al.,)
)
 Defendant.)
)

ORDER

THIS MATTER IS BEFORE THE COURT regarding Plaintiff’s “Amended Complaint” (Document No. 10) filed on February 21, 2024. This case has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate.

Federal Rule of Civil Procedure 15 applies to the amendment of pleadings and allows a party to amend once as a matter of course within 21 days after serving, or “if the pleading is one to which a responsive pleading is required, 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). Rule 15 further provides:

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed.R.Civ.P. 15(a)(2).

Although it does not appear that Plaintiff’s “Amended Complaint” (Document No. 10) was timely filed pursuant to Fed.R.Civ.P. 15, in this instance, the Court will allow the Amended

Complaint (Document No. 10), which will now supersede the original Complaint (Document No. 1).

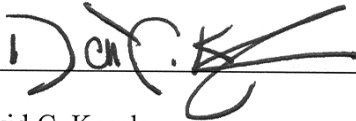
Where an amended pleading supersedes the original pleading, the motions directed at the original pleading may be denied as moot. See Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (“The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect.”); see also, Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect.’”).

Based on the foregoing, the undersigned finds that Plaintiff’s requests for default judgment (Document Nos. 4 and 8) based on the original Complaint should be denied as moot.

IT IS, THEREFORE, ORDERED that Plaintiff’s “Notice of Default...” (Document No. 4) and “Plaintiff’s Motion For A Default And Summary Judgment (Document No. 8) are **DENIED AS MOOT.**

SO ORDERED.

Signed: May 9, 2024



David C. Keesler
United States Magistrate Judge

