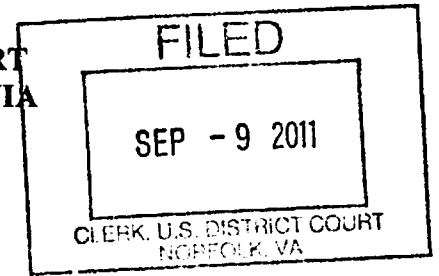


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



ALAN J. BROWN,

Plaintiff,

v.

CIVIL NO. 2:11cv184

STEVEN D. COX, et al

Defendants.

OPINION AND ORDER

In the instant action, Plaintiff Alan J. Brown (“Plaintiff”) seeks to sue Defendants Steven D. Cox, Shawn Norman, and David Browning (“Defendants”), over injuries he sustained as a result of a boating accident on August 28, 2010. On March 29, 2011, Plaintiff filed a Complaint alleging various causes of action against Defendants, each of whom were served with notice of the Complaint on April 6, 2011. While Defendants Norman and Browning filed an Answer and Motion to Dismiss within the 21-day period following service, Defendant Cox did not. Plaintiff moved for entry of default against Defendant Cox, and default was entered by the Clerk of this Court on May 2, 2011, pursuant to Federal Rule of Civil Procedure 55(a). On July 27, 2011, the Court issued an Opinion and Order granting Defendants’ Norman and Browning Motion to Dismiss Plaintiff’s Complaint, and granting Plaintiff leave to amend his Complaint. On August 17, 2011, Plaintiff filed an Amended Complaint.

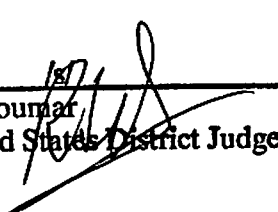
An amended pleading supersedes the original and renders it of no legal effect. Young v. City of Mount Ranier, 238 F.3d 567, 572 (4th Cir. 2001). Further, when a complaint is

substantively amended following a default, it operates to reopen that default. In re Johnson, 24 B.R. 751, 754 (Bankr. N.D.Ill. 1982). Although Defendant Cox defaulted as to Plaintiff's original Complaint, Plaintiff reopened that default by filing an Amended Complaint that addressed the substance of the pleadings in this case. Plaintiff is therefore required to serve his Amended Complaint on Defendant Cox in conformance with Federal Rule of Civil Procedure 4. Although Plaintiff's 120-day service deadline under Rule 4(m) has expired, the Court finds good cause to extend the time for service of the Amended Complaint.

Accordingly, the Court hereby **VACATES** the Clerk's May 2, 2011, Entry of Default as to Defendant Cox. Plaintiff is hereby **ORDERED** to serve the Amended Complaint on Defendant Cox within 45 days of the date of this Order.

The Clerk is **DIRECTED** to deliver a copy of this Opinion and Order to all Counsel of Record in this case.

IT IS SO ORDERED.



Robert G. Doumar
Senior United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
September 9, 2011