

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
SENIOR JUDGE WALKER D. MILLER

Civil Action No. 07-cv-01814-WDM-MJW

DEBBIE ULIBARRI;
ESTATE OF SHAWN FRANCISCO VIGIL;
COLORADO CROSS-DISABILITY COALITION, a Colorado corporation;
COLORADO ASSOCIATION OF THE DEAF, a Colorado corporation;
ROGER KREBS; and
SARAH BURKE,

Plaintiffs,

v.

CITY & COUNTY OF DENVER;
ALVIN LACABE, in his official capacity as Manager of Public Safety for the City &
County of Denver;
WILLIAM LOVINGIER, in his official capacity as Director of Corrections and
Undersheriff for the City & County of Denver;
RON D. FOOS, in his official capacity as Division Chief for the County Jail Division for
the City & County of Denver;
GARY WILSON, in his official capacity as Division Chief for the Pre-Arrestment
Detention Facility Division; and
GERALD R. WHITMAN, in his official capacity as Chief of Police,

Defendants.

ORDER ON MOTION TO DISMISS OFFICIAL CAPACITY CLAIMS

Miller, J.

This case is before me on the Unopposed Motion to Dismiss Official Capacity Claims (ECF No. 278). Defendants seek to dismiss the official capacity claims against Defendants Alvin LaCabe, William Lovingier, Ron D. Foos, Gary Wilson, and Gerald Whitman. On September 30, 2010, I entered an order (ECF No. 265) granting partial summary judgment in favor of Defendants and against Plaintiffs; the order included dismissal of the claims against the individual defendants in their individual capacities. As a result, the only claims

remaining against the individuals are official capacity claims under the Americans with Disabilities Act and the Rehabilitation Act (Claims 1 and 2). Claims against a government employee in his official capacity are essentially an action against the entity that employs him--here, the City and County of Denver. *Pietrowski v. Town of Dibble*, 134 F.3d 1006, 1009 (10th Cir. 1998) (citing *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985)). Because Denver remains as a defendant in this matter, the official capacity claims are duplicative and, at the parties' request, will be dismissed.

Accordingly, it is ordered:

1. The Unopposed Motion to Dismiss Official Capacity Claims (ECF No. 278) is granted. Claims 1 and 2, as asserted against Defendants Alvin LaCabe, William Lovingier, Ron D. Foos, Gary Wilson, and Gerald Whitman in their official capacities, are dismissed. These claims remain pending against Defendant the City and County of Denver.

DATED at Denver, Colorado, on December 7, 2010.

BY THE COURT:



s/ Walker D. Miller
United States Senior District Judge