

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02107-PAB-MJW

JOHN DAVIS,

Plaintiff,

v.

CITY OF AURORA, et al.,

Defendants.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter is before the Court on defendant Donald Ainsworth's Motion to Dismiss [Docket No. 68]. On August 24, 2010, plaintiff filed the Second Amended Complaint [Docket No. 111] pursuant to the Minute Order [Docket No. 110] granting plaintiff's Motion for Leave to Amend Plaintiff's First Amended Complaint [Docket No. 95]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 68] is directed to an inoperative, superseded pleading. See, e.g., *Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended under Rule 15(a) supersedes the pleading it modifies") (internal quotation marks omitted). As such, the motion to dismiss is moot. It is

**ORDERED** that defendant Ainsworth's Motion to Dismiss [Docket No. 68] is DENIED as moot.

DATED August 27, 2010.