

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer**

Civil Case No. 09-cv-00359-PAB-KLM

BONNIE GARCIA,
individually and as personal representative of the estate of Joshua Garcia,

Plaintiff,

v.

COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO,
THE STATE OF COLORADO,
JOHN DEQUARDO, individually,
JAMES SEWELL, M.D., individually, and
CORRINE MARTINEZ CASIAS, individually,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendant Corrine Martinez Casias's Motion to Dismiss [Docket No. 23]. On July 1, 2009, plaintiff filed the Second Amended Complaint [Docket No. 55] pursuant to the Order [Docket No. 52] granting her Motion for Leave to File Second Amended Complaint [Docket No. 28]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 23] is directed to an inoperative, superseded pleading.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 Casias's Motion to Dismiss [Docket No. 23] is DENIED as moot.

DATED July 30, 2009.