

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

Civil Action No. 09-cv-00711-PAB-BNB

DEBRA KAY DEVOE,

Plaintiff,

v.

MARK BROADDUS, in his individual capacity as Warden,
SUSAN ROBERTS, in her individual capacity as CNM, NP,
JENNIFER COUNTRYMAN-TRUJILLO, in her individual capacity as RN,
YVETTE MARTINEZ-HOCHBERG, M.D., in her individual capacity as Physician,
SERGEANT CHERIE SANCHEZ, in her individual capacity,
SERGEANT TOU LO, in his individual capacity,
PATRICK POLLEY, in his individual capacity,
ABEL RAZO, in his individual capacity,
ROXANNE BARCA, in her individual capacity,
MUSHAFU KUKOYI, in his individual capacity,
DANTE BLANTON, in his individual capacity,
PAMELA DANIELLE, in her individual capacity,
DANIEL SULLIVAN, in his individual capacity,
CHANTAY BANKS, in her individual capacity,
PER DIEM MEDICAL STAFFING, INC.,
DANIEL PETERSEN, R.N., in his individual capacity, and
SUPPLEMENTAL HEALTH CARE SERVICES LIMITED INC., d/b/a Supplemental
Health Care,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendant Mark Broaddus's Motion to Dismiss [Docket No. 7], defendant Jennifer Countryman's Motions to Dismiss [Docket No. 16] and defendant Yvette Martinez-Hochberg's Motion to Dismiss [Docket No. 28]. On November 13, 2009, plaintiff filed the Third Amended Complaint [Docket No. 80] pursuant to the Order [Docket No. 79] granting plaintiff's Motion to Amend Complaint [Docket No. 74]. Thus, the Third Amended Complaint became the operative pleading in this action, and the Motions to Dismiss [Docket Nos. 7, 16 and 28] are directed to an inoperative, superseded pleading.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 motions to dismiss are moot. It is

ORDERED that defendants’ Motions to Dismiss [Docket Nos. 7, 16 and 28] are DENIED as moot.

DATED November 23, 2009.