

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 09-cv-02584-PAB-MJW

CHRISTINA MARQUEZ,

Plaintiff,

v.

BRIAN NORTON, Sheriff of Rio Grande County, Colorado,
BOYD WHEELWRIGHT, Deputy Sheriff of Rio Grande County, Colorado,
HARVEST STANDARD, LLC, a Texas limited liability company, d/b/a/ Harvest Select,
MICHELE PETERSON, and
JENNIFER METZ,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendants Michele Peterson and Jennifer Metz's Motion to Dismiss Plaintiff's Seventh Claim for Relief [Docket No. 15]. On January 19, 2010, plaintiff filed the Second Amended Complaint [Docket No. 28] pursuant to the Minute Order [Docket No. 27] granting Plaintiff's Motion to Amend Complaint [Docket No. 23]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 15] is directed to an inoperative, superseded pleading.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 defendants Peterson and Metz's Motion to Dismiss [Docket No. 15] is DENIED as moot.

DATED February 3, 2010.