

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 10-cv-01297-REB-KLM

ED HARSHBARGER, JR.,
RONALD HERBER,
VIRGIL JONES, and
THE DENVER TYPOGRAPHICAL UNION NO. 49, COMMUNICATIONS WORKERS
OF AMERICA LOCAL NO. 14705,

Plaintiffs,

v.

LESTER E. STEVENS, JR.,
THE DENVER NEWSPAPER GUILD-CWA, LOCAL NO. 37074 OF THE
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO-CLC, and
THE DENVER NEWSPAPER AGENCY, LLP, a Delaware limited liability partnership,

Defendants.

ORDER DENYING WITHOUT PREJUDICE AS MOOT MOTIONS TO DISMISS

Blackburn, J.

The matters before me are (1) **Defendant Denver Newspaper Agency's Motion Under Fed.R.Civ.P. 21 To Drop Denver Newspaper Agency as a Misjoined party, Alternatively To Dismiss Under Fed.R.Civ.P. 12(b) [#16]** filed September 20, 2010; (2) **Defendant Denver Newspaper Guild – Communications Workers of America, Local No. 37074 Motion To Drop as a Party and/or Be Dismissed [#17]** filed September 20, 2010; and (3) **Motion To Dismiss of Defendant Lester E. Stevens, Jr. [#18]** filed September 20, 2010. After these motions were filed, plaintiffs filed an amended complaint. (**See Amended Complaint for Injunctive and Declaratory Relief [#23]**, filed October 15, 2010.) **See also FED.R.CIV.P. 15(a)(1)(B)**

(party may file amended pleading once as a matter of course within 21 days after service of a motion under Rule 12(b)). The filing of an amended complaint moots a motion to dismiss directed at the superseded complaint. **See *Griggs v. Jornayvaz***, 2009 WL 1464408 at *1 (D. Colo. May 22, 2009); ***United States ex rel. Babb v. Northrop Grumman Corp.***, 2007 WL 1793795 at *1 (D. Colo. June 19, 2007).¹

THEREFORE, IT IS ORDERED as follows:

1. That **Defendant Denver Newspaper Agency's Motion Under Fed.R.Civ.P. 21 To Drop Denver Newspaper Agency as a Misjoined party, Alternatively To Dismiss Under Fed.R.Civ.P. 12(b) [#16]** filed September 20, 2010, is **DENIED WITHOUT PREJUDICE** as moot;

2. That **Defendant Denver Newspaper Guild – Communications Workers of America, Local No. 37074 Motion To Drop as a Party and/or Be Dismissed [#17]** filed September 20, 2010, is **DENIED WITHOUT PREJUDICE** as moot; and

3. That **Motion that defendant's Motion for Partial Dismissal for Failure To State a Claim [#3]** filed April 20, 2010, is **DENIED WITHOUT PREJUDICE** as moot.

Dated October 26, 2010, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge

¹ Plaintiffs filed a response to docket #16, which was stricken by the court, noting, *inter alia*, that plaintiffs failed to use Arial 12-point font, as required by my Civil Practice Standards. (**See Minute Order [#26]**, filed October 15, 2010.) Plaintiffs' revised response uses Arial 12-point font but plainly fails to comply with the Local Rule requiring that all papers be double-spaced. **See D.C.COLO.LCivR 10.1E**. This apparent attempt to bypass the page limitations of my Civil Practice Standards has not gone unnoticed and will not be tolerated. Any future submissions must comply with *all* the Local Rules of Practice of the United States District Court for the District of Colorado-Civil as well as *all* my Civil Practice Standards. Non-complying submissions will be stricken. **See REB Civ. Practice Standard V.C.**