

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01734-PAB-BNB

DANIEL LEROY RHODEN,

Plaintiff,

v.

THE CITY OF LAKEWOOD, COLORADO,
KEVIN PALETTA, in his individual capacity and official capacity,
RYAN O'HAYRE, in his individual capacity, and
STUART RUYBAL, in his individual capacity,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendants' Motion to Dismiss [Docket No. 24]. On February 15, 2012, plaintiff filed a First Amended Complaint [Docket No. 30] which was accepted for filing pursuant to the Order [Docket No. 34] granting his Motion for Leave to Amend Complaint [Docket No. 31]. Thus, the First Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 24] is directed to an inoperative, superseded pleading.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' Motion to Dismiss [Docket No. 24] is DENIED as moot.

DATED February 29, 2012.