

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01249-PAB-KMT

KATHRYN GUY, as mother, next of kin and executor of the estate of James Guy,
deceased,

Plaintiff,

v.

NATHAN JORSTAD,
RICHARD MYERS, Chief of Police,
STEVE COX, Interim City Manager,
individually and in their official capacity, and
CITY OF COLORADO SPRINGS, a Municipality,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendants' Motion to Dismiss [Docket No. 11]. On November 2, 2012, plaintiff filed an Amended Complaint [Docket No. 33] pursuant to the Order [Docket No. 32] granting plaintiff's Motion to Amend Complaint [Docket No. 24]. Thus, the Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 11] is directed to an inoperative, superseded pleading.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. 11] is DENIED as moot.

DATED November 8, 2012.