

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02764-REB-KLM

JAMES FAIRCLOTH,

Plaintiff,

v.

CELIA SCHWARTZ, Legal Assistant for BVCF, in her official and individual capacities, and
GERRY BLAND, Hearings Officer for BVMC/BVCF, in his official and individual capacities,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Petition for Court Order to Compel Colorado Dept. of Corrections Legal Services Dept. and Crowley Correctional Facility to Not Impede Access to Colorado Court Rule Compliance Mandates** [Docket No. 66; Filed April 29, 2013] (the "Motion for Order"); on Defendants' **Motion to Dismiss Amended Complaint (Doc. 57)** [Docket No. 71; Filed June 4, 2013] (the "Motion to Dismiss"); and on Plaintiff's **Petition for Leave to File Amended Complaint** [Docket No. 79; Filed July 29, 2013] (the "Motion to Amend").

IT IS HEREBY **ORDERED** that Defendants shall file a Response to Plaintiff's Motion for Order [#66] **on or before August 15, 2013**.

IT IS FURTHER **ORDERED** that Plaintiff's Motion to Amend [#79] is **GRANTED**. Accordingly,

IT IS FURTHER **ORDERED** that the Clerk of the Court shall accept Plaintiff's Amended Complaint [#79-1] for filing as of the date of this Minute Order.

IT IS FURTHER **ORDERED** that Defendants shall answer or otherwise respond to Plaintiff's Amended Complaint [#79-1] on or before **August 19, 2013**.

IT IS FURTHER **ORDERED** that Defendants' Motion to Dismiss [#71] is **DENIED as moot**. See, e.g., *Strich v. United States*, No. 09-cv-01913-REB-KLM, 2010 WL 14826, at *1 (D. Colo. Jan. 11, 2010) (citations omitted) ("The filing of an amended complaint moots

a motion to dismiss directed at the complaint that is supplanted and superseded.”); *AJB Props., Ltd. v. Zarda Bar-B-Q of Lenexa, LLC*, No. 09-2021-JWL, 2009 WL 1140185, at *1 (D. Kan. April 28, 2009) (finding that amended complaint superseded original complaint and “accordingly, defendant’s motion to dismiss the original complaint is denied as moot”); *Gotfredson v. Larsen LP*, 432 F.Supp.2d 1163, 1172 (D. Colo. 2006) (noting that defendants’ motions to dismiss are “technically moot because they are directed at a pleading that is no longer operative”).

Dated: August 1, 2013