

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-03231-REB-KLM

VICTORIA CARBAJAL,  
DEAN CARBAJAL, and  
LUIS LEAL,

Plaintiffs,

v.

MITCHELL R. MORISSEY, District Attorney for the Second Judicial District, in his official and individual capacities,  
JEFFREY WATTS, Investigator for the Second Judicial District, in his official and individual capacities,  
ROBERT FULLER, Investigator for the Second Judicial District, in his official and individual capacities,  
REBEKAH MELNICK, Deputy District Attorney for the Second Judicial District, in her official and individual capacities,  
LARA MULLIN, Deputy District Attorney for the Second Judicial District, in her official and individual capacities,  
MILES FLESCHE, District Administrator and Clerk for the Second Judicial District, in his official and individual capacities,  
KEITH CRISWELL, Deputy Court Clerk for the Second Judicial District, in his official and individual capacities,  
ANNE MANSFIELD, District Court Judge for the Second Judicial District, in her official and individual capacities,  
KEEFER, Deputy Sheriff for the Denver Detention Center, in his official and individual capacities,  
MICHAEL SIMPSON, Detective for the Denver Police Department, in his official and individual capacities,  
JAY LOPEZ, Detective for the Denver Police Department, in his official and individual capacities,  
RICHARD HAGAN, Detective for the Denver Police Department, in his official and individual capacities,  
CAROL DWYER, a co-conspirator with the Second Judicial District Attorney's Office, in her official and individual capacities,  
WELLS FARGO, a corporation,  
BRIAN BERARDINI, a co-conspirator with the Second Judicial District Attorney's Office, in his individual capacity, and  
JOHN SUTHERS, Attorney General for the State of Colorado, in his official and individual capacities,

Defendants.

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**MINUTE ORDER**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court on Plaintiff's **Motion for Leave to File Amended Complaint** [Docket No. 30; Filed February 20, 2013] (the "Motion to Amend"); on Defendants John Miles Flesche, Adrian Keith Criswell, Anne Mansfield, and John Suthers' **State Defendants' Motion to Dismiss** [Docket No. 18; Filed January 28, 2013]; on Defendant Brian Berardini's **Motin to Dismiss** [Docket No. 20; Filed January 29, 2013]; and on Defendants Mitchell R. Morrissey, Jeffrey Watts, Robert Fuller, Rebekah Melnick, and Lara Mullin's **Motion to Dismiss** [Docket No. 24; Filed February 1, 2013]. Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiff may amend his pleading once as a matter of course "within . . . 21 days after service of a motion under Rule 12(b) . . . ." Plaintiff has submitted his First Amended Complaint within this period. Accordingly,

IT IS HEREBY **ORDERED** that the Motion to Amend [#30] is **GRANTED**. Accordingly,

IT IS FURTHER **ORDERED** that Plaintiff's First Amended Complaint [#30-1] is accepted for filing as of the date of this Minute Order.

IT IS FURTHER **ORDERED** that those Defendants who have already been served and entered their appearances in this case shall answer or otherwise respond to Plaintiffs' Amended Complaint [#30-1] on or before **March 14, 2013**.

IT IS FURTHER **ORDERED** that Defendants' Motions to Dismiss [#18, #20, #24] are **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. Apr. 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: February 21, 2013