

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01860-MSK-KLM

SUMMER R. COLBY, and  
JAMES R. COLBY,

Plaintiffs,

v.

DISTRICT COURT OF FREMONT COUNTY,  
MICHAEL HERRICK, Brand Inspector, and  
COLORADO BRANDING COMMISSION,

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 Defendants' **Motion to Dismiss** [#23], on Plaintiffs' **Motion for: Substitution/Correction of Parties Pursuant to FRCP 25, Required or Permissive Joinder of Parties Under FRCP 19/20** [#36] (the "Motion for Joinder"), and on Plaintiffs' **Second Motion for Leave of Court to Re-plead and/or Amend Complaint Pursuant to F.R.C.P. 15(a)** [#37] (the "Motion to Amend").

IT IS HEREBY **ORDERED** that the Motion to Amend [#37] is **GRANTED**. The Clerk of Court shall accept Plaintiffs' Second Amended Complaint [#37-1] for filing as of the date of this Minute Order.

IT IS FURTHER **ORDERED** that the Motion for Joinder [#36] is **DENIED as moot**, as the requested changes are included in Plaintiffs' Second Amended Complaint [#37-1].

IT IS FURTHER **ORDERED** that the Motion to Dismiss [#23] 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("The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded."); *AJB Props., Ltd.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 April 28, 2009) (finding that amended complaint superseded original complaint and "accordingly, defendant's motion to dismiss the original complaint is denied as moot"); *Gotfredson v. Larsen LP*, 432 F.Supp.2d 1163,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: October 16, 2014