

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01934-KLM

MICHAEL OSTROWSKI,

Plaintiff,

v.

CITY OF MONTROSE,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendant's **Motion to Dismiss** [#12], on Plaintiff's **Motion for Leave to File First Amended Complaint** [#15] (the "Motion to Amend"), and on Plaintiff's **Motion for Second Extension of Time to File Response to Motion to Dismiss** [#16] (the "Motion for Extension"). This case is still in the earliest stages of litigation, and a Scheduling Conference has not yet been held. Plaintiff has not previously sought to amend his original Complaint [#1]. Accordingly,

IT IS HEREBY **ORDERED** that the Motion to Amend [#15] is **GRANTED**. The Clerk of Court shall accept Plaintiff's Amended Complaint [#1] for filing as of the date of this Minute Order.

IT IS FURTHER **ORDERED** that the Motion to Dismiss [#12] 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("The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded."); *AJB Props., Ltd.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 April 28, 2009) (finding that amended complaint superseded original complaint and "accordingly, defendant's motion to dismiss the original complaint is denied as moot"); *Gottfredson v. Larsen LP*, 432 F.Supp.2d 1163,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").

IT IS FURTHER **ORDERED** that the Motion for Extension [#16] is **DENIED as moot**.

IT IS FURTHER **ORDERED**, sua sponte, that the Scheduling Conference set for November 13, 2014 at 10:30 a.m. is **VACATED** and **RESET** to **December 11, 2014 at 10:00 a.m.** in Courtroom C-204 of the Byron G. Rogers United States Courthouse, 1929 Stout Street, Denver, Colorado.

IT IS FURTHER **ORDERED** that the parties shall submit their proposed scheduling order pursuant to the District of Colorado Electronic Case Filing ("ECF") Procedures. The parties shall submit the proposed scheduling order no later than **December 4, 2014**.

Dated: November 3, 2014