

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00494-PAB-NYW

JDK LLC, a Colorado limited liability company,  
DEBORAH KOLASSA,  
JERRY KOLASSA, and  
S. MARK SPOONE,

Plaintiffs,

v.

RONALD K. HODGE,  
GREGG K. HODGE,  
PAUL A. TALBOT,  
FRANK O. HOFMEISTER,  
JAMES E. SYLVESTER,  
MAX 1 FINANCIAL LLC, a Colorado limited liability company, and  
BROOKE TALBOT,

Defendants.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter is before the Court on Defendant Hofmeister's Motion to Dismiss [Docket No. 19] and Defendants Paul Talbot and Brooke Talbot's Motion to Dismiss [Docket No. 61]. On October 2, 2015, plaintiffs filed the First Amended Complaint [Docket No. 80] pursuant to the Order [Docket No. 79] granting Plaintiffs' Motion for Leave to File First Amended Complaint [Docket No. 76]. Thus, the First Amended Complaint became the operative pleading in this action, and the motions to dismiss [Docket Nos. 19 and 61] are directed to an inoperative, superseded pleading.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 motions to dismiss are moot. It is

**ORDERED** that Defendant Hofmeister's Motion to Dismiss [Docket No. 19] and Defendants Paul Talbot and Brooke Talbot's Motion to Dismiss [Docket No. 61] are DENIED as moot.

DATED October 6, 2015.