

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01458-MSK-KLM

ELIZABETH VOLL,

Plaintiff,

v.

LONG BUILDING TECHNOLOGIES, INC.,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendant's **Renewed Motion to Dismiss** [#15] (the "Motion to Dismiss") and on Plaintiff's **Motion for Leave to File Amended Complaint** [#19] (the "Motion to Amend"). Plaintiff filed this lawsuit as a pro se litigant. See *Compl.* [#1]. Defendant filed the Motion to Dismiss [#15] on December 3, 2015. On February 16, 2016, an attorney entered an appearance on Plaintiff's behalf. See [#18]. On February 18, 2016, the present Motion to Amend [#19] was filed. Given that Plaintiff has not yet requested to amend the Complaint, and given that a Scheduling Conference has not yet been held and a deadline for joinder of parties and amendment of pleadings has not been set, the Court finds that amendment should be permitted pursuant to Fed. R. Civ. P. 15(a)(2) (stating that "[t]he court should freely give leave when justice so requires").

IT IS HEREBY **ORDERED** that the Motion to Amend [#19] is **GRANTED**. The Clerk of Court shall accept Plaintiff's Amended Complaint [#19-1] for filing as of the date of this Minute Order.

IT IS FURTHER **ORDERED** that Defendant's Motion to Dismiss [#15] 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("The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded."); *AJB Props., Ltd.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. Apr. 28, 2009) (finding that amended complaint superseded original complaint and "accordingly, defendant's motion to dismiss the original complaint is denied as moot"); *Gotfredson v. Larsen LP*, 432 F. Supp. 2d 1163,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 23, 2016