

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

SARA HARMON and JOSEPH  
HARMON,

Plaintiffs,

v.

Case No. 18-CV-209-JPS

CITY OF RACINE, SGT. RYAN  
COMSTOCK, INV. CHAD STILLMAN,  
INV. DONALD NUTTALL, and SGT.  
ROBERT THILLEMANN,

Defendants.

**ORDER**

On June 12, 2018, the plaintiffs filed an unopposed motion for leave to file a first amended complaint. (Docket #25). They attached as an exhibit to their motion the proposed first amended complaint. (Docket #25-1). In light of the defendants' assent, and because "justice so requires," Fed. R. Civ. P. 15(a)(2), the Court will grant the plaintiffs' motion.

The first amended complaint, (Docket #25-1), shall become the operative pleading in this case. *See Johnson v. Dossey*, 515 F.3d 778, 780 (7th Cir. 2008). The original complaint is withdrawn. *Id.* Therefore, the motion filed by defendants City of Racine, Chad Stillman, Donald Nuttall, and Robert Thillemann to dismiss the original complaint, (Docket #13), will be denied as moot. *See Maffiola v. State Farm Ins. Companies*, No. 09-CV-287, 2009 WL 2983059, at \*2 (W.D. Wis. Sept. 14, 2009) (Granting a plaintiff's motion for leave to amend "moot[s] defendant's motion to dismiss and

require[s] defendant to file a new motion if it believe[s] the new complaint remain[s] legally deficient.").

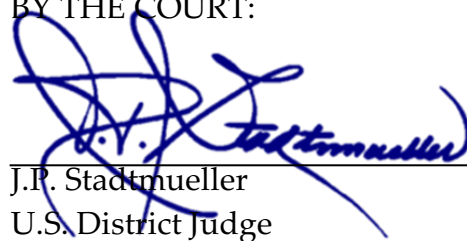
Accordingly,

**IT IS ORDERED** that the plaintiffs' motion for leave to file a first amended complaint (Docket #25) be and the same is hereby **GRANTED**; and

**IT IS FURTHER ORDERED** that the defendants' motion to dismiss (Docket #13) be and the same is hereby **DENIED as moot**.

Dated at Milwaukee, Wisconsin, this 13th day of June, 2018.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized and cursive.

J.P. Stadtmueller  
U.S. District Judge