

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
2023 JUL 20 PM 3:05
MARGARET DOTY, CLERK
CASPER

ASHLEY WILLEY and
SEAN WILLEY,

Plaintiffs,

VS.

Case No. 23-CV-069-SWS

SWEETWATER COUNTY SCHOOL
DISTRICT NO. 1 BOARD OF
TRUSTEES, KELLY MCGOVERN,
NICOLE BOLTON, KAYCI ARNOLDI,
and BRYANT BLAKE,

Defendants,

ORDER DENYING MOTION TO DISMISS WITHOUT PREJUDICE

This matter comes before the Court on *Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6)* (ECF No. 23) (the "Motion to Dismiss") filed by Defendants Sweetwater County School District No. 1 Board of Trustees, Kelly McGovern, Nicole Bolton, Kayci Arnoldi, and Bryant Blake (collectively "Defendants"). Having reviewed the motion and reviewed the record, the Court FINDS AND ORDERS as follows:

1. It is well established that an "amended complaint ordinarily supersedes the original and renders [the original] of no legal effect." *Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991). "Because the original complaint has been superseded and nullified, there is no longer a live dispute about the propriety or merit of the claims asserted

therein; therefore, any motion to dismiss such claims is moot.” *Scott v. Buckner Co.*, 388 F.Supp.3d 1320, 1324 (D. Colo. 2019).

2. Defendants filed the Motion to Dismiss on June 29, 2023. (ECF No. 23.) On July 6, 2023, Plaintiffs Ashley Willey and Sean Willey (collectively “Plaintiffs”) filed a notice indicating they intended to amend their original Complaint (ECF No. 1) in lieu of responding to the Motion to Dismiss (*see* ECF No. 25).

3. On July 20, 2023, Plaintiffs timely filed their Amended Complaint (ECF No. 26). *See* Fed. R. Civ. P. 15(a)(1)(B) (party may amend its pleading once as a matter of course no later than 21 days after service of a responsive pleading or service of a motion under Rule 12(b), whichever is earlier).

4. Because the Amended Complaint supersedes and nullifies the original Complaint, the Motion to Dismiss is moot and must be denied without prejudice.

5. Counsel for both parties and their clients would be well served to focus their pleadings and legal submissions to the law and relevant facts and dispense with immaterial, impertinent, or scandalous matters.

IT IS THEREFORE ORDERED *Defendants’ Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6)* (ECF No. 23) is DENIED WITHOUT PREJUDICE to refiling.

Dated this 20th day of July, 2023.



Scott W. Skavdahl
United States District Judge