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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Javier Torres, et al.,

10 Plaintiffs,

11 v.

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13 Terry Goddard, Attorney General of
Arizona, et al.,

14 Defendants.

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No. CIV 06-2482-PHX-SMM

ORDER

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Pending before the Court is a Motion to Dismiss Plaintiffs' Claims for Monetary Relief filed by Defendants Terry Goddard and Cameron Holmes ("Defendants"). (Dkt. 24)

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Defendants moved to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure ("Federal Rules"). On June 21, 2007, Defendants filed their Answer to Plaintiffs' First Amended Complaint. (Dkt. 51) Once the answer was filed, it became procedurally impossible for the Court to rule on the motion to dismiss. *See 5 Wright & Miller, Federal Practice and Procedure: Civil § 1361* (motions made after responsive pleading are technically not 12(b) motions). A motion to dismiss challenges the sufficiency of the allegations within the complaint while an answer admits or denies those allegations and raises any available affirmative defenses. Therefore, the Court finds that the motion to dismiss has been rendered moot by the filing of an answer.

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Accordingly,

IT IS HEREBY ORDERED DENYING Defendants' Motion to Dismiss Plaintiffs' Claims for Monetary Relief (Dkt. 24).

DATED this 12th day of July, 2007.



Stephen M. McNamee
United States District Judge