



lacks subject matter jurisdiction over the matter, and hereby dismisses the action pursuant to Colorado Rule 12(b)(1).

The Court further finds that dismissal under Colorado Rule 12(b)(5) is appropriate. The Court takes judicial notice of the previously filed action, *See Stacy Lynne v. Noah Beals and Jeremy Call*, 2018 CV 220, Larimer County District Court. The Order entered in Plaintiff's first case was a final judgment on the merits in favor of Defendant Beals, and the prior case involved identical parties, identical claims and identical subject matter. Holding alternatively, the Court finds that Plaintiff's claims should be dismissed pursuant to Rule 12(b)(5) under the doctrine of claim preclusion.

Plaintiff's claims are governed by the one-year statute of limitations set forth in C.R.S. §13-80-103. Plaintiff's first filed suit conclusively establishes that her cause of action accrued on or before December 4, 2018. The instant lawsuit was not filed until February 14, 2020, and thus the one-year statute of limitations has passed. Holding alternatively, the Court dismisses Plaintiff's Amended Complaint pursuant to Rule 12(b)(5) on the basis of statute of limitations.

Finally, because Plaintiff has alleged that conduct of a public employee was willful and wanton, and failed to prevail on this claim, C.R.S. § 24-10-110(5)(a)(c) mandates that Defendant be awarded his attorney fees against Plaintiff. Defendant shall have 15 days to submit an affidavit of attorney's fees incurred in defending this action.

The Court thus GRANTS Defendants' motion, and dismisses Plaintiff's Amended Complaint with prejudice.

DATED this \_\_\_\_ day of April, 2020.

BY THE COURT:

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DISTRICT COURT JUDGE