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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 PRESCOTT COMPANIES, INC.,
12 Plaintiff,
13 v.
14 MT. VERNON FIRE INSURANCE
15 COMPANY,
16 Defendant.

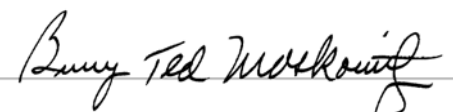
CASE NO. 10cv107 BTM(BLM)

**ORDER DENYING MOTION TO
DISMISS AS MOOT**

17 On January 19, 2010, Defendant filed a motion to dismiss Plaintiff's Complaint for
18 failure to state a claim. On January 26, 2010, Plaintiff filed a First Amended Complaint. Due
19 to the filing of the amended complaint, Defendant's motion to dismiss is **DENIED AS MOOT**.
20 This order is without prejudice to any motions Defendant may wish to file in response to the
21 First Amended Complaint. If Plaintiff files a motion to dismiss the First Amended Complaint
22 on or before February 5, 2010, Defendant may notice the motion for March 12, 2010 at 11:00
23 a.m., the hearing date of Defendant's original motion to dismiss.

24 **IT IS SO ORDERED.**

25 DATED: January 27, 2010

26 

27 Honorable Barry Ted Moskowitz
28 United States District Judge