

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn

Civil Action No. 09-cv-00077-REB-BNB

MARK STAVASKI,

Plaintiff,

v.

SUN MICROSYSTEMS, INC., and
DAVID PROFOZICH,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE AS MOOT
MOTION TO DISMISS PLAINTIFF'S FIFTH AMENDED CLAIM FOR RELIEF**

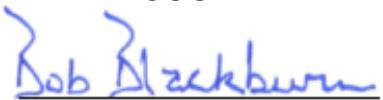
Blackburn, J.

The matter before me is defendants' **Motion To Dismiss Plaintiff's Amended Fifth Claim for Relief** [#55] filed October 16, 2009. After the motion was filed, plaintiff sought leave to amend his complaint, *inter alia*, to provide "a more definite statement of the claim." (**See Plaintiff's Second Motion To Amend Complaint ¶7 at 4** [#60] filed November 5, 2009.) The magistrate judge granted the motion, and the second amended complaint has been accepted for filing. (**See Order** [#71] filed November 20, 2009.) The filing of an amended complaint moots a motion to dismiss directed at the superseded complaint. **See Griggs v. Jornayvaz**, 2009 WL 1464408 at *1 (D. Colo. May 22, 2009); **United States ex rel. Babb v. Northrop Grumman Corp.**, 2007 WL 1793795 at *1 (D. Colo. June 19, 2007).

THEREFORE, IT IS ORDERED that defendants' **Motion To Dismiss Plaintiff's Amended Fifth Claim for Relief** [#55] filed October 16, 2009, is **DENIED WITHOUT PREJUDICE** as moot.

Dated November 23, 2009, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge