

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Case No. 09-cv-00897-PAB-BNB

PETER ARNOLD,

Plaintiff,

v.

WELLS FARGO BANK, N.A.,

Defendant.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

On May 14, 2009, defendant Wells Fargo Bank, N.A. filed a motion to dismiss [Docket No. 8] plaintiff's complaint [Docket No. 2]. On June 3, 2009, plaintiff filed an amended complaint [Docket No. 12].

Thus, as of June 3, 2009, the operative pleading is the amended complaint. Defendant's motion to dismiss is therefore directed at an inoperative, superseded pleading. See, e.g., *Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("[A] pleading that has been amended under Rule 15(a) supersedes the pleading it modifies . . .") (internal quotation marks omitted). As such, the motion to dismiss is moot. Therefore, it is

ORDERED that defendant's motion to dismiss [Docket No. 8] is DENIED without prejudice as moot.

DATED June 10, 2009.