

**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

This matter is before the Court on defendant's Motion to Dismiss [Docket No. 21]. On December 10, 2009, plaintiff filed the Second Amended Complaint [Docket No. 67] pursuant to the Minute Order [Docket No. 66] granting Plaintiff's Motion for Leave to File Amended Complaint [Docket No. 64]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 21] is directed to an inoperative, superseded pleading.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. It is

ORDERED that defendant's Motion to Dismiss [Docket No. 21] is DENIED as moot.

DATED January 25, 2010.