

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

Civil Action No. 09-cv-02519-PAB-KLM

HENRY SCHNEIDMAN, an Individual,

Plaintiff,

v.

48STRAIGHT INVESTMENTS, LLC, an Idaho limited liability company,  
KMN SKIING, INC, an Idaho corporation,  
48STRAIGHT LLC, a Colorado liability company, and  
KIPP M. NELSON, an Individual,

Defendants.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter is before the Court on Defendant Kipp M. Nelson's Motion To Dismiss Plaintiff's Fourth Claim For Relief [Docket No.13] and Defendant 48Straight Investment, LLC's Motion To Dismiss Plaintiff's Second Claim For Relief [Docket No. 14]. On December 15, 2009, plaintiff filed the First Amended Complaint [Docket No. 22] pursuant to the Minute Order [Docket No. 21] granting plaintiff's Unopposed Motion to Amend/Correct/Modify Complaint [Docket No. 19]. Thus, the First Amended Complaint became the operative pleading in this action, and the Motions to Dismiss [Docket Nos. 13 and 14] are directed to an inoperative, superseded pleading.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 motions to dismiss are moot. It is

ORDERED that defendants' Motions to Dismiss [Docket Nos. 13 and 14] are DENIED as moot.

DATED December 30, 2009