

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

Civil Case No. 10-cv-02105-REB-KLM

HAROLD M. "MICKEY" FRANCIS,  
TOMMIE H. FRANCIS, and  
TRAVELERS INDEMNITY COMPANY, as subrogee of the Petroleumplace, Inc.,

Plaintiffs,

v.

STARWOOD HOTELS & RESORTS WORLDWIDE, INC., d/b/a Le Meridian Heliopolis,  
a Maryland corporation, et al.,

Defendants.

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**ORDER DENYING MOTIONS AS MOOT**

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**Blackburn, J.**

The matters before me are defendant's (1) **Motion To Dismiss on Grounds of *Forum Nonconveniens*** (sic) [#14]<sup>1</sup> filed September 28, 2010; and (2) **Motion for Summary Judgment** [#15] filed September 28, 2010. After the motions were filed, plaintiffs filed **Plaintiffs** (sic) **Joint Motion To Amend Complaint** [#38] on November 15, 2010. Subsequently, the magistrate judge granted leave to file the amended complaint (**Order Granting Leave To Amend** [#42] filed December 8, 2010), which has now been docketed (**Plaintiff's** (sic) **First Amended Complaint and Request for Jury Trial** [#44] filed December 8, 2010).

The filing of an amended complaint moots a motion to dismiss directed at the superceded complaint. **See *Griggs v. Jornayvaz***, 2009 WL 1464408 at \*1 (D. Colo.

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<sup>1</sup> "[#14]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

May 22, 2009); **United States ex rel. Babb v. Northrop Grumman Corp.**, 2007 WL 1793795 at \*1 (D. Colo. June 19, 2007). Therefore, the motion to dismiss is moot and will be denied without prejudice on that basis.

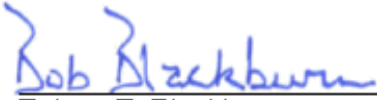
Moreover, it appears that the amended complaint changes substantially the nature of this lawsuit, adding numerous additional parties in an effort to address, via the alter ego doctrine, arguments set forth in the motion for summary judgment. Under the circumstances, I find it would be more efficient to deny the motion for summary judgment without prejudice so that the issues may be resolved based on the claims as currently formulated.

**THEREFORE, IT IS ORDERED** as follows:

1. That defendant's **Motion To Dismiss on Grounds of *Forum Nonconveniens*** (sic) [#14] filed September 28, 2010, is **DENIED** as moot; and
2. That **Motion for Summary Judgment** [#15] filed September 28, 2010, is **DENIED** without prejudice.

Dated December 14, 2010, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge