

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02891-PAB-MJW

DAVID M. SHELTON and
DESIGNSENSE, INC.,

Plaintiffs,

v.

MRIGLOBAL, a non-profit corporation, formally Midwest Research Institute
its National Renewable Energy Laboratory Division, and
ALLIANCE FOR SUSTAINABLE ENERGY, LLC,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendants' Motion to Dismiss [Docket No. 11]. On January 26, 2012, plaintiff filed a Second Amended Complaint [Docket No. 25] pursuant to the Minute Order [Docket No. 24] granting plaintiff's Motion for Leave to Amend the Complaint [Docket No. 18]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 11] is directed to an inoperative, superseded pleading.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 defendants' Motion to Dismiss [Docket No. 11] is DENIED as moot.

DATED January 26, 2012.