

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01687-PAB-DW

VIESTI ASSOCIATES, INC.,

Plaintiff,

v.

PEARSON EDUCATION, INC.,

Defendant.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter is before the Court on defendant's Motion to Dismiss [Docket No. 19]. On April 13, 2012, plaintiff filed a First Amended Complaint [Docket No. 63] pursuant to the Order [Docket No. 62] granting plaintiff's Motion for Leave to File First Amended Complaint [Docket No. 58]. Thus, the First Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 19] is directed to an inoperative, superseded pleading.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. 19] is DENIED as moot.

DATED April 13, 2012.