

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BARRY W. FLETCHER SR.,	)	4:12CV3179
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
ROBERT P. HOUSTON, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff’s Motion for Leave to File Amended Complaint. (Filing No. [37](#).) Defendants did not oppose the Motion and the time in which to do so has passed. Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend “shall be freely given when justice so requires.” The applicable standard is summarized in [Foman v. Davis, 371 U.S. 178, 182 \(1962\)](#), which states:

If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claims on the merits. In the absence of any apparent reason—such as undue delay, bad faith or dilatory motive on the part of the movant, ... undue prejudice to the opposing party by virtue of the allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be “freely given.”

*Id.*

The court has carefully reviewed the proposed Amended Complaint and finds that amendment would not be futile and is not made in bad faith. Also, Defendants do not oppose Plaintiff’s Motion to Amend. In accordance with [NECivR 15.1](#), the court will consider the amended pleading as superseding, rather than as supplemental to, the original Complaint.

IT IS THEREFORE ORDERED that:

1. Plaintiffs' Motion for Leave to Amend Complaint (Filing No. [37](#)) is granted.
2. The Clerk of the court is directed to file the proposed Amended Complaint and its attachments as a separate document in this matter. (See Filing No. [37](#) at CM/ECF pp. 3-40 and Filing No. [37-1](#).)

DATED this 4<sup>th</sup> day of June, 2013.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge

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