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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

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<p>LESTER JON RUSTON,</p> <p>Plaintiff,</p> <p>v.</p> <p>THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS; GORDON B. HINCKLEY; VICTOR JAMES RUSTON; MARGARET ELIZABETH RUSTON; JERRY HENDERSON; ALLISON RUSTON- SMITH; MEL CHADWICK; KENT ROBERTSON; IAN JAMES RUSTON; BRAD OATES; AND LARRY K. HERCULES,</p> <p>Defendants.</p>	<p><b>CHURCH DEFENDANT'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S OMNIBUS MOTION TO AMEND COMPLAINT</b></p> <p>Case No.: 2:06cv00526DB</p> <p>Judge Benson</p> <p>Magistrate Judge Nuffer</p>
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Defendants The Church of Jesus Christ of Latter-day Saints (“LDS Church” or “the Church”), Gordon B. Hinckley, and any other defendant (if any) sued in his or her capacity as an ecclesiastical leader in the LDS Church (the “Church Defendants”), through counsel, submit this Memorandum in Opposition to Plaintiff’s Omnibus Motion to Amend Complaint.

**ARGUMENT**

Plaintiff's complaint may not be amended without leave of court. *See* Fed. R. Civ. P. 15(a). The motion should be denied because any amendment would be futile. *See Trujillo v. Williams*, 465 F.3d 1210, 1224 (10th Cir. 2006). As explained in the Church Defendants' pending motion to dismiss, filed on November 15, 2006 (Doc. # 11), Plaintiff's complaint, amended or not, is clearly barred by the Prisoner Litigation Reform Act, 28 U.S.C. § 1915. Accordingly, the Church Defendants request that the Court deny Plaintiff's motion to amend and grant the motion to dismiss.

DATED this 12<sup>th</sup> day of June, 2007.

KIRTON & McCONKIE

/s/ \_\_\_\_\_  
Matthew K. Richards  
Justin W Starr  
Attorneys for The Church of Jesus Christ of Latter-  
day Saints and Gordon B. Hinckley

**CERTIFICATE OF SERVICE**

I hereby certify that on the 12<sup>th</sup> day of June, 2007, I caused a true and correct copy of the foregoing **MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO AMEND COMPLAINT** to be mailed to the following:

Lester J. Ruston, No. 26834-177  
P.O. Box 4000  
Springfield, Missouri 65801

\_/s/ Debra Domenici\_\_\_\_\_