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Attorneys for Defendants

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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LESTER JON RUSTON,

Plaintiff,

v.

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,

Defendants.

**CHURCH DEFENDANT'S  
MEMORANDUM IN OPPOSITION TO  
PLAINTIFF'S OMNIBUS MOTION FOR  
JOINDER OF ADDITIONAL PARTIES  
SUPPLEMENTATION TO REQUEST  
FOR A TRO**

Case No.: 2:06cv00526DB

Judge Benson

Magistrate Judge Nuffer

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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 for Joinder of Additional Parties.

### ARGUMENT

Plaintiff Lester Ruston filed his complaint in this matter on June 30, 2006. Notwithstanding Ruston's failure to serve the complaint on the Church Defendants, on November 15, 2006, the Church Defendants filed a motion to dismiss showing that Ruston's claims are barred by the Prisoner Litigation Reform Act, 28 U.S.C. § 1915. Since that time Ruston has filed a flurry of frivolous motions, most of which are pending before the Court. Ruston's latest motion seeks to add the State of Texas as a defendant and requests that the court grant a motion for temporary restraining order. The Church Defendants have never received a motion for a temporary restraining order. The pending motion to dismiss is dispositive of all the issues in this case. Accordingly, the Church Defendants respectfully request that the Court grant its motion to dismiss Ruston's complaint.

DATED this 31 <sup>August</sup> day of July, 2007.

KIRTON & McCONKIE



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>~~ <sup>3<sup>rd</sup></sup> day of ~~June~~ <sup>August</sup>, 2007, I caused a true and correct copy of the foregoing **MEMORANDUM IN OPPOSITION TO PLAINTIFF'S OMNIBUS MOTION FOR JOINDER OF ADDITIONAL PARTIES SUPPLEMENTATION TO REQUEST FOR A TRO** to be mailed to the following:

Lester J. Ruston, No. 26834-177  
P.O. Box 880  
Ayer, Mass. 01432

