

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

BRIAN KIRK,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 5:24-CV-06023-SJ-GAF
)	
CITY OF ST. JOSEPH, MISSOURI, <i>ET. AL.</i>)	
)	
Defendant.)	

**PLAINTIFF’S REPLY TO DEFENDANTS BLEVINS AND GREIERT’S
OPPOSING SUGGESTIONS TO PLAINTIFF’S SECOND MOTION
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Plaintiff has filed a motion to amend his Complaint pursuant to Rule 15 of the Federal Rules of Civil Procedure. Rule 15a provides:

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served . . . Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.

Plaintiff respectfully requests the Court grant Plaintiff’s Motion to Amend and deny Defendant’s Motion to Dismiss as moot. See, *Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 956 (8th Cir. 2002). The Court in *Pure Country* stated:

However, in denying Pure Country's motion to amend the complaint, the district court did not exercise any discretion based upon the interests of justice. Instead, the district court ignored Pure Country's motion to amend, granted Sigma Chi's motion to dismiss the original complaint, and then denied Pure Country's motion to amend the complaint as *moot*. That approach, as a procedural matter, was plainly erroneous. If anything, Pure Country's motion to amend the complaint rendered moot Sigma Chi's motion to dismiss the original complaint. See, e.g., *Standard Chlorine of Delaware, Inc. v. Sinibaldi*, 821 F.Supp. 232, 239-40 (D.Del. 1992) (holding that the plaintiff's

filing of an amended complaint rendered the defendants' motion to dismiss the original complaint moot). *Id. at 956.*

Therefore, Plaintiff requests the Court to grant his motion to file his Second Amended Complaint.

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I hereby certify that a copy of the foregoing was electronically filed on this 9th day of July 2024 with the Clerk of the Court via the CM/ECF eFiling System which automatically transmits an electronic Notice of Entry to:

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