

**IN THE UNITED STATES COURT  
DISTRICT OF KANSAS**

SAMUEL K. LIPARI,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Case No. 2:07-cv-02146-CM
	)	
U.S. BANCORP and	)	
U.S. BANK NATIONAL ASSOCIATION,	)	
	)	
<i>Defendants.</i>	)	

**MOTION FOR LEAVE TO AMEND PETITION**

Comes now the plaintiff Samuel K. Lipari appearing *pro se* and makes the following motion for leave to amend his complaint to correct any deficiencies found in the second dismissal. The plaintiff respectfully requests leave for the following reasons:

**STATEMENT OF FACTS**

1. The plaintiff's complaint was written for a Missouri state court forum.
2. The plaintiff objects to the second motion to dismiss as being prohibited under the provisions of F.R. Civ. P. Rule 12.
3. The resources of the court and the parties would be best conserved by correcting any specific deficiencies determined by the court in its findings on the second motion to dismiss.

**MEMORANDUM IN SUPPORT**

Fed. R. Civ. P. 15(a) states: "[L]eave [to amend] shall be freely given when justice so requires," .

The Tenth Circuit in *Bolden v. City of Topeka, Kan.*, 441 F.3d 1129 (10th Cir., 2006) determined that minor deficiencies in complaints should be correctable : "Dismissal on such a technical ground, without granting leave to amend, would rarely be appropriate." The court also found the City of Topeka was not prejudiced by amendment: "we see absolutely no unfair prejudice to the City, or any other reason not to allow Mr. Bolden to amend his complaint."

The defendants would similarly not be prejudiced by granting leave to amend when the audio recording and email shows the parties knew they were in contract.

Respectfully Submitted,

S/ Samuel K. Lipari

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*Pro se*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was served via email, on this 26th day of  
March, 2008 to:

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ATTORNEYS FOR DEFENDANTS

S/ Samuel K. Lipari

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Samuel K. Lipari