In The United States District Court
For The District Of Columbia

BRET D. LANDRITH Apt. 209, 5308 SW Tenth St. Topeka, KS 66604 bret@bretlandrith.com 1-913-951-1715	)	**Case No. 12-cv-01916-ABJ**
SAMUEL K. LIPARI 803 S. Lake Drive Independence, MO 64064 saml@medicalsupplyline.com 1-816-365-1306	)	
Plaintiffs	)	
vs.	)	
Hon. JOHN G. ROBERTS, JR., Chief Justice of the United States 1 First St. NE Washington, DC 20543	)	**MOTION TO AMEND**
In his official capacity as head of the Judicial Conference of the United States	)	

MOTION FOR LEAVE TO AMEND COMPLAINT UNDER RULE 15

Comes now the plaintiffs, BRET D. LANDRITH and SAMUEL K. LIPARI, appearing *pro se* and make the following motion for leave to amend and to serve the attached second amended complaint.

POINTS IN SUPPORT OF LEAVE TO AMEND

1. The ECF No. 1 (Complaint) and ECF No. 11 (Amended Complaint) have already been filed and responded to by the defendant with motions to dismiss.

2. The amendment addresses and corrects the defendant's perceived deficiencies in the First Amended Complaint ECF No. 11.

3. The Second Amended Complaint also includes new claims against Chief Justice Hon. JOHN G. ROBERTS, JR., for the discriminatory enforcement of attorney moral character and fitness standards for attorneys and other officers of the federal courts.

4. This amended injunctive relief cause of action is based on the post-complaint conduct of Chief Justice Hon. JOHN G. ROBERTS in defense of the plaintiffs' claims where this issue was repeatedly incorporated in the pleadings of the parties.

5. The Second Amended Complaint also includes claims against an additional defendant Attorney General ERIC H. HOLDER, JR. for his conduct on behalf of Chief Justice Hon. JOHN G. ROBERTS, JR.

6. Attorney General ERIC H. HOLDER, JR., his employees and agents can personally answer for much of the post complaint claims against Chief Justice Hon. JOHN G. ROBERTS, JR., likely reducing or eliminating his need to be called as a witness.

AUTHORITIES IN SUPPORT OF LEAVE TO AMEND

The procedure for amending pleadings is controlled by Fed. R. Civ. P. Rule 15. "The Court shall freely give plaintiff leave to amend "when justice so requires." Fed.R.Civ.P. 15.

The new claims have already been treated as if tried by consent of the parties in the pleadings related to the motions to dismiss and leave should be freely given to amend on this separate Fed.R.Civ.P. 15(b)(2) basis. Fed.R.Civ.P. 15(b)(2) tried by consent an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move—at any

time, even after judgment—to amend the pleadings to conform them to the evidence and to raise an unpleaded issue.

> ""Where, as here, a party seeks to amend its pleadings outside that time period, it may do so only with the opposing party's written consent or the district court's leave. See Fed.R.Civ.P. 15(a)(2). The decision whether to grant leave to amend a complaint is entrusted to the sound discretion of the district court, but leave "should be freely given unless there is a good reason, such as futility, to the contrary." Willoughby v. Potomac Elec. Power Co., 100 F.3d 999, 1003 (D.C.Cir.1996), cert. denied, 520 U.S. 1197, 117 S.Ct. 1553, 137 L.Ed.2d 701 (1997). As the Supreme Court has observed:
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> 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 claim on the merits. In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be "freely given."
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> Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962). "[A] district court has discretion to deny a motion to amend on grounds of futility where the proposed pleading would not survive a motion to dismiss." Nat'l Wrestling Coaches Ass'n v. Dep't of Educ., 366 F.3d 930, 945 (D.C.Cir.2004), cert. denied, 545 U.S. 1104, 125 S.Ct. 2537, 162 L.Ed.2d 274 (2005). Review for futility is practically "identical to review of a Rule 12(b)(6) dismissal based on the allegations in the amended
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> [793 F.Supp.2d 322]
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> complaint." In re Interbank Funding Corp. Secs. Litig., 629 F.3d 213, 215–16 (D.C.Cir.2010) (quotation marks omitted). Because leave to amend should be liberally granted, the party opposing amendment bears the burden of coming forward with a colorable basis for denying leave to amend. Abdullah v. Washington, 530 F.Supp.2d 112, 115 (D.D.C.2008)."

Council On Am.–islamic Relations Action Network Inc. v. Gaubatz, 793 F.Supp.2d 311 at 321-2, 79 Fed.R.Serv.3d 1221 (D.D.C., 2011).