

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

FRANCES HINES, TIMOTHY OWENS )  
PRISCILLA JOHNSON, ESSIE McCATREY, )  
DANNY HINES, ANGELA MOORE, )  
and )  
HOUSING COMES FIRST, INC., )  
a Missouri non-profit corporation, )  
 )  
Plaintiffs, )

v. )

CHARLESTON HOUSING AUTHORITY, )  
a municipal corporation; )  
PAUL PAGE, in his official capacity )  
as Executive Director of the )  
Charleston Housing Authority; )  
UNITED STATES DEPARTMENT OF )  
HOUSING AND URBAN DEVELOPMENT; and )  
MEL MARTINEZ, in his )  
official capacity as Secretary of )  
the United States Department of )  
Housing and Urban Development, )  
 )  
Defendants. )

No. 1:01CV00070CDP

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE TO  
FILE SECOND AMENDED COMPLAINT AND ADD PARTY PLAINTIFF**

Plaintiffs have moved the Court pursuant to Rules 15 and 21 of the Federal Rules of Civil Procedure for leave to file a Second Amended Complaint and to add Yolanda Clark and Tisha Smith as party plaintiffs. Rule 15 expressly provides that leave to file amended pleadings should be freely granted. Fed R. Civ. P. 15(a). See also Frey v. City of Herculaneum, 44 F.3d. 667, 672 (8<sup>th</sup> Circ. 1995). The Supreme Court has confirmed that courts should liberally grant leave to amend pleadings absent factors such as undue

delay, bad faith, or prejudice to opposing parties. Foman v. Davis, 371 U.S. 178 (1962).  
See also Bell v. Allstate Life Insurance Co., 160 F.3d. 452, 454 (8<sup>th</sup> Cir. 1998).

In this case, Plaintiffs have not engaged in any undue delay in moving for leave to amend their complaint. This case was filed on April 26, 2001. At this time, the Court has not set a deadline for the filing of amended pleadings or addition of parties. The filing of an amended complaint at this stage in the proceedings will not result in any undue prejudice to Defendants

Plaintiffs also seek leave to add Tisha Smith and Yolanda Clark as party plaintiffs. Rule 21 provides that leave to add parties should be granted on such terms as are just. Tisha Smith, Yolanda Clark and their respective families are currently on the Charleston Housing Authority's waiting list for assisted housing where they have remained for over one year. They have been passed over for available public housing units and lost their place on the waiting list because the Housing Authority put households from Charleston Apartments into vacant public housing units ahead of Plaintiffs Smith and Clark and other waiting list households. The Housing Authority has not offered Smith or Clark a unit at Charleston Apartments even though 47 units are vacant. Smith and Clark and their families have thus been injured by the Housing Authority's effort to vacate and demolish Charleston Apartments and its refusal to rent up the vacant Charleston Apartment units.

The addition of Tisha Smith and Yolanda Clark as party plaintiffs will help to ensure that all issues and injuries flowing from the Housing Authority Defendants' plan for Charleston Apartments are before the Court. Because this action is still in its earliest

stages, Plaintiffs have not unduly delayed in seeking joinder of Tisha Smith and Yolanda Clark, nor will such joinder result in any undue prejudice to Defendants.

For the foregoing reasons, Plaintiffs request the Court to grant their motion for leave to file their Second Amended Complaint and to add Tisha Smith and Yolanda Clark as party plaintiffs.

Respectfully submitted,

LEGAL SERVICES OF SOUTHERN MISSOURI, INC.

---

Lew Polivick ED# 4073  
116 North Main  
P.O. Box 349  
Charleston, MO 63834  
(573) 683-3783 telephone  
(573) 683-2151 facsimile

ATTORNEYS FOR FRANCES HINES,  
TIMOTHY OWENS, PRISCILLA JOHNSON,  
ESSIE McCATREY, DANNIE HINES, AND  
ANGELA MOORE

LEGAL SERVICES OF EASTERN MISSOURI, INC.

---

Ann B. Lever ED# 3675  
Daniel E. Claggett ED# 2821  
4232 Forest Park Avenue  
St. Louis, Missouri 63108  
(314) 534-4200 telephone  
(314) 534-1028 facsimile

ATTORNEYS FOR HOUSING COMES FIRST, INC.

Todd Espinosa  
California Bar No. 209591  
National Housing Law Project  
614 Grand Avenue, Suite 320  
Oakland, California 94610  
510-251-9400 ext 101 telephone  
510-451-2300 facsimile

OF COUNSEL

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was hand delivered to the following counsel of record on July 20, 2001:

John L. Oliver, Jr.  
Oliver, Oliver & Waltz, P.C.  
400 Broadway, P.O. Box 559  
Cape Girardeau, MO 63702-0559

Attorney for Defendants Charleston Housing Authority  
and Paul Page

Michael Price  
United States Attorney's Office  
325 Broadway, Second Floor  
P.O. Box 2107  
Cape Girardeau, MO 63702-2107

The undersigned certifies that a copy of the foregoing document was served on the following counsel of record by first class U.S. mail, postage prepaid on December 26, 2001:

Eugene Lipscomb  
Linda Tapper  
Department of Housing and Urban Development  
400 State Avenue  
Kansas City, Kansas 66101-2406

Attorneys for Defendants United States Department of Housing and Urban Development and Secretary Mel Martinez