

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

OXFORD HOUSE, INC.,  
et al.,

Plaintiffs,

vs.

Case No. 06-4004-RDR

CITY OF TOPEKA, KANSAS,

Defendant.

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**ORDER STRIKING PLAINTIFFS' SECOND AMENDED COMPLAINT**

This matter comes before the court upon Plaintiffs' Second Amended Complaint (Doc. 6). Plaintiffs commenced their action on January 4, 2006. On February 14, 2006, Plaintiffs filed their First Amended Complaint (Doc. 5) and on February 23, 2006, Plaintiffs filed their Second Amended Complaint (Doc. 6).

Fed. R. Civ. P. 15(a) states in pertinent part:

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. (emphasis added).

Plaintiffs did not seek leave of court before filing their Second Amended Complaint, nor does it appear that plaintiffs obtained the adverse party's permission prior to filing their Second Amended

Complaint.

Therefore, the court shall strike Plaintiffs' Second Amended Complaint (Doc. 6) as improper under the Federal Rules of Civil Procedure. The court directs plaintiffs to file a motion in compliance with Fed. R. Civ. P. 15 should they wish to file a Second Amended Complaint at this time.

**IT IS SO ORDERED.**

Dated this 23<sup>rd</sup> day of February, 2006, at Topeka, Kansas.

s/ K. Gary Sebelius  
K. Gary Sebelius  
U.S. Magistrate Judge