

Form 10. Motion to Dismiss -- Failure to State a Claim

[Caption and signature block as in Form 1]

Pursuant to Rule 12(b)(6) of the Utah Rules of Civil Procedure, defendant moves the court for an order dismissing the First and Second Claims for Relief in plaintiff's complaint. The grounds for this motion are that each claim fails to state a claim upon which relief can be granted. The First Claim fails to allege that the plaintiff reasonably relied upon statements of the defendant, a necessary element to state a claim for fraud. The Second Claim for violation of the Utah Securities Act fails to allege that defendant is the person who offered or sold the security to the plaintiff, as is required to state a claim pursuant to Utah Code Ann. §61-1-22.

This motion is supported by the memorandum in support filed with this motion and all other pleadings on file with the court in this action.