

IN THE COURT OF COMMON PLEAS  
CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION – EQUITY

	)	
	)	Docket No. 2023-cv-2998-C1
	)	
	)	TYPE OF PLEADING
SPOTLIGHT PA,	)	Brief in Support of Motion for
	)	Leave to File Second Amended
Plaintiff;	)	Complaint
	)	
BOARD OF TRUSTEES OF THE	)	FILED ON BEHALF OF
PENNSYLVANIA STATE	)	Spotlight PA
UNIVERSITY,	)	
	)	COUNSEL OF RECORD
Defendant.	)	Paula Knudsen Burke
	)	
	)	PA I.D. NUMBER
	)	87607

**PLAINTIFF’S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION  
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

**I. MATTER BEFORE THE COURT**

Plaintiff’s Motion for Leave to File Second Amended Complaint.

**II. STATEMENT OF QUESTIONS INVOLVED**

Should Plaintiff be granted leave to file its Second Amended Complaint?

*Suggested Answer: Yes.*

Should the current briefing and argument schedule be stayed?

*Suggested Answer: Yes.*

### III. FACTS

On December 6, 2023, Plaintiff initiated the instant litigation by filing a lawsuit in the Centre County Court of Common Pleas and then a first amended complaint on March 6, 2024. On March 26, 2024 Defendant filed Preliminary Objections. On April 5, 2024, this Court issued a briefing and argument schedule, requiring Defendant to file its brief in support of its Preliminary Objections by May 6, 2024, and Plaintiff to file its own brief on June 6, 2024. Both parties are scheduled to appear before the Court on June 21, 2024 for oral argument on Defendants' preliminary objections.

On May 21, 2024, Defendant, Penn State Board of Trustees, held a public meeting at which Board leadership and trustees discussed the conduct and topics deliberated during the Board's executive sessions. The public meeting was characterized by significant dissent among trustees themselves regarding the Board's Sunshine Act compliance and there were statements made about what had been discussed during executive sessions over the past years and months that give rise to new claims in this litigation. *See* Exhibit C to Proposed Second Amended Complaint, which is appended to the Motion for Leave.

In light of these revelations, Plaintiff now seeks leave to file the Second Amended Complaint and to stay the current briefing and argument schedule such that Defendant may respond to the Second Amended Complaint.

#### IV. LEGAL ARGUMENT

Pursuant to Rule 1033 of the Pennsylvania Rules of Civil Procedure, a party “may at any time .... amend his pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense.” Furthermore, leave to amend complaints “should be granted with liberality so as to secure determination of cases on their merits *whenever possible*.” *Saracina v. Cotoia*, 417 Pa. 80, 83 (1965) (emphasis in original).

Here, extending leave to file this proposed Second Amended Complaint would provide the Court the opportunity to decide the instant case on the merits. Indeed, Defendant has filed Preliminary Objections alleging that Plaintiff’s First Amended Complaint was deficient; while Plaintiff does not concede this point, it is common sense that having further concrete facts and allegations will enhance and not detract from the administration of justice.

In sum, this court has broad discretion to grant Plaintiff leave to file the proposed Second Amended Complaint and respectfully requests the Court do so. *See William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168 (1975) (“The amendment of pleadings is a matter for the exercise of a wise and judicial discretion in the court below. The right to amend should be liberally granted at any stage of the proceedings ....”). To facilitate proper consideration of the Second

Amended Complaint, Plaintiff also respectfully requests that the current briefing and argument schedule be stayed.

**V. RELIEF REQUESTED**

For the foregoing reasons, Plaintiff respectfully requests this Court enter the proposed order granting Plaintiff leave to file the proposed Second Amended Complaint and stay the current briefing and argument schedule.

Dated: June 3, 2024

Respectfully submitted,

/s/ Paula Knudsen Burke  
Paula Knudsen Burke  
PA I.D. No. 87607  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
PO Box 1328  
Lancaster, PA 17608  
Telephone: (717) 370-6884  
Facsimile: (202) 795-9310  
[pknudsen@rcfp.org](mailto:pknudsen@rcfp.org)  
*Counsel for Plaintiff Spotlight PA*

**CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Paula Knudsen Burke  
Signature: /s/ Paula Knudsen Burke  
Attorney No.: 87607