

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMERICAN CIVIL RIGHTS UNION,)
in its individual and corporate capacities,)
)
 Plaintiff,)

v.)

Civil Action No. 2:16-cv-01507

PHILADELPHIA CITY)
COMMISSIONERS,)
 Defendants.)

_____)

PLAINTIFF’S MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT

Plaintiff American Civil Rights Union (“ACRU”), by and through counsel, hereby moves this Court for leave to file the attached First Amended Complaint in this action pursuant to Federal Rule of Civil Procedure 15(a)(2) and Local Rule 7.1. For the reasons set forth in the accompanying Memorandum, filed pursuant to Local Rule 7.1(c), Plaintiff respectfully requests that this Court grant it leave to file the First Amended Complaint because it will not prejudice the Defendants and sets forth newly discovered facts and claims.

Counsel for ACRU requested Defendants’ consent to ACRU amending the Complaint.

Counsel for Defendants stated that Defendants do not consent to this Motion.

Dated: July 20, 2016

Respectfully submitted,

For the Plaintiff ACRU:

J. Christian Adams*
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**Admitted Pro Hac Vice*

/s/ Linda A. Kerns
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PHILADELPHIA CITY)
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**PLAINTIFF’S MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Plaintiff American Civil Rights Union (“ACRU”), by and through counsel, hereby submits this memorandum of law pursuant to Local Rule 7.1 in support of Plaintiff’s Motion for Leave to File First Amended Complaint, and hereby states as follows:

1. Leave to amend “shall be freely given when justice so requires.” Fed R. Civ. P. 15. A motion to amend should be denied only when (1) the non-moving party can demonstrate undue delay, bad faith, or dilatory motives, (2) the amendment would be futile, or (3) the amendment would prejudice the other party. *Lake v. Arnold*, 232 F.3d 360, 373 (3rd Cir. 2000).

2. There has been no undue delay, bad faith, or dilatory motive in this action. This amendment adds a claim for failure to maintain the voter rolls on the part of the Defendants and facts related to that claim, which came to the Plaintiff’s attention during a meeting with the Defendants two weeks ago. Namely, Defendants admitted that they undertake no effort whatsoever to identify and remove registrants from the rolls who are deemed ineligible to be on the rolls by 25 Pa. Cons. Stat. Ann. § 1301 and 25 Pa. Stat. Ann. § 3146.1.

3. No undue prejudice will result because Plaintiff had already noticed Defendants of potential violations of Section 8 of the National Voter Registration Act for failure to perform voter list maintenance in their original notice letter. The meeting with Defendants confirmed that facts existed warranting a claim, which is now being added to this action as soon as is practicable.

4. The additional facts and count related to voting list maintenance involve the same statutory section and private right of action involved in the original complaint.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests leave to file the First Amended Complaint attached hereto.

Respectfully submitted,

For the Plaintiff ACRU:

J. Christian Adams*
Kaylan L. Phillips*
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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2016, I caused the foregoing to be filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, which will serve all registered users.

Dated: July 20, 2016

/s/ Linda A. Kerns
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