

IN THE SUPREME COURT	)	
	)	
Action No. 10 SSC 001	)	
	)	
Rick Ingram,	)	
	)	
Plaintiff	)	
	)	
versus	)	ORDER GRANTING
	)	PLAINTIFF'S MOTION
Andrew Phillips,	)	TO AMEND HIS
Chairperson, Board of Elections	)	COMPLAINT
	)	
Defendant.	)	

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I. BACKGROUND

- (1) On February 7, 2011, Plaintiff, Rick Ingram, notified this Court of his intent to bring an action against Board of Elections Chair Andrew Phillips and six other members of the Board. In his Complaint, Plaintiff sought to have the Court immediately vacate the Board of Elections' decision to investigate Plaintiff's potential disqualification as a Student Body President candidate. Alternatively, Plaintiff requested the Court issue a temporary injunction under III S.G.C. § 410(A) (2009), requiring that the election be postponed until the matter is settled so as not to disrupt the integrity of the election process. See Complaint of Ingram, *Ingram v. Phillips, et al.*, 10 SSC 001 (2011).
  
- (2) On February 9, 2011, six out of seven Defendants filed timely answers with the Court. Five Defendants-- Shruthi Sundaram, Connor Brady, Keyoor Patel, Cydney Swofford, and Patricia Flood—asserted in their respective Answers that, pursuant to III S.G.C. § 510(B)(3) (2009), all Defendants but Chairperson Andrew Phillips were unnecessary Defendants.<sup>1</sup> See, e.g., Answer of Sundaram, ¶¶ 3, *Ingram v. Phillips, et al.*, 10 SSC 001 (2011).
  
- (3) On February 9, 2011 the Court found Defendants Sundaram, Brady, Patel, Swofford, and Flood to be improper Defendants, and, per III S.G.C. § 511(B) (2009), the Court issued an Order dismissing them from the case. In the same Order, the Court also dismissed Defendant Wood from the case on grounds that Defendant Wood was a person on neither the Board of Elections nor a member of the University Student Body.

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<sup>1</sup> Defendant Wood could not be served, and after a reasonable investigation, Chief Clerk Michael Gordon found that no such person serves on the Board of Elections or exists in the University student body. As such, there is no answer from Defendant Wood. Additionally, Chair Phillips admitted he is a necessary Defendant in the suit. See Answer of Phillips, ¶ 3, *Ingram v. Phillips, et al.*, 10 SSC 001 (2011).

(4) On Thursday, February 10, 2011, Plaintiff filed a timely motion to amend his Complaint, citing that since the contested disqualification hearing has already taken place, “immediate vacation of the Board of Election’s [sic] investigation into the plaintiff is no longer possible.” See Motion to Amend of Ingram, ¶¶ 1, 4, *Ingram v. Phillips, et al.*, 10 SSC 001 (2011).

## II. ANALYSIS

III S.G.C. § 524(A) (2009) allows parties to motion to amend their pleadings after submitting the pleadings to the Court, so long as the motion to amend is made prior to trial. However, III S.G.C. § 524(B) (2009) mandates that amendments to pleadings “shall be granted and the proper order shall be issued if it is determined that the granting of the amendment will not result in prejudice or hardship to the other party”—implying that motions to amend pleadings prior to trial shall be denied if granting the motion would cause prejudice or hardship to the opposing party.<sup>2</sup> Thus, in determining whether to grant Plaintiff’s motion to amend his Complaint, I must determine whether granting Plaintiff’s motion will result in prejudice or hardship to Defendant<sup>3</sup>. This test impliedly requires balancing the factors weighing in favor of granting Plaintiff’s Motion against the risk of prejudice or hardship that granting said Motion poses to Defendant.

In this case, Plaintiff requests to amend his Complaint because, since the time of the Complaint’s original filing, the factual circumstances underlying the Complaint have so changed as to make it impossible for this Court to grant Plaintiff’s original requests for relief. In this case, the change in the factual circumstances were outside Plaintiff’s control—the occurrence of the hearing which subsequently made Plaintiff’s requests for relief moot were conducted at the discretion of the Board of Elections, not at the discretion of the Plaintiff. Additionally, if the Complaint were to go forward as presently filed, the Court would be presented with a moot case. As such, Plaintiff’s Complaint would be dismissed necessarily, and both Plaintiff and Defendant would be faced with the risk of possibly having to prosecute and defend an entirely new case should the Plaintiff later decide to refile. Thus, the interests of equity and judicial efficiency rest heavily with the Plaintiff.

On the other hand, granting Plaintiff’s Motion poses no risk of prejudice or hardship to Defendant for two reasons.

First, the Court can allow Defendant a reasonable time to file a new Answer, new Motions, and new Briefs so that Defendant is afforded a fair chance to respond to any new allegations alleged in Plaintiff’s revised Complaint. Therefore, there is no chance that granting Plaintiff’s Motion would prejudice Defendant before the Court.

Second, though potentially needing to revise and resubmit his initial filings may be inconvenient to Defendant, the standard is one of hardship, not convenience. On the other hand, placing Defendant in the position of defending against a moot case, while simultaneously placing

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<sup>2</sup> Emphasis added.

<sup>3</sup> Though Plaintiff’s Complaint named seven Defendants, all but Chairperson Phillips have been dismissed from the suit. Thus, “Defendant” is used in the Analysis, though “Defendants” is used in Background.

Defendant at risk of having to defend against another potential case arising from a later filed Complaint, certainly is the kind of hardship prohibited by III S.G.C. § 524(B). Thus, granting Plaintiff's Motion to amend his complaint causes no prejudice or hardship to Defendant; in fact granting Plaintiff's Motion shields Defendant from both.

### III. ORDER

ACCORDINGLY,

The Court GRANTS Plaintiff's Motion to amend his Complaint. The Court ORDERS that Plaintiff's revised Complaint submitted to the Court by Friday, February 11, 2011 at 5 p.m. The Court also GRANTS Defendant leave to file a new Answer, new Motions, and new Briefs, if, upon receiving Plaintiff's revised Complaint, the Defendant choose to do so. The Court ORDERS that, in accordance with the rationale of fair notice underlying III S.G.C. § 506, the new deadline for Defendant's new Answer is Saturday, February 12, 2011 at 5 pm. The Court further ORDERS a new deadline for all parties' Motions and Briefs to be submitted to the Court of Sunday, February 13, 2011 at 5 p.m.

Done this 11th day of February 2011, at 10:49 a.m.

/s/Jessica E.H. Womack  
Jessica E.H. Womack, C.J.  
for the Court