

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

---

MICHAEL A. MCKNIGHT,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	No. 00-573
	:	
SCHOOL DISTRICT OF PHILADELPHIA,	:	
et al.,	:	
Defendants.	:	

---

MEMORANDUM

ROBERT F. KELLY, J.

JANUARY 29, 2001

Presently before this Court is the Plaintiff's Motion to Amend his Complaint. This Court ordered discovery to be completed by December 18, 2000, and Pretrial Motions to be filed by January 8, 2001. The Plaintiff filed his Motion to Amend on January 8, 2001. The Plaintiff, through a colloquy with the Court at a September 27, 2000 conference, indicated his intent to amend his Complaint. However, no Motion to Amend was filed until more than three months later, after the close of discovery. In the interim, Plaintiff, who was previously unrepresented, retained and subsequently discharged counsel.

Plaintiff seeks to amend his Complaint to add a claim pursuant to 42 U.S.C. section 1981 ("section 1981") as well as claims for libel, slander and intentional infliction of emotional distress. Plaintiff's proposed amendment also includes compensatory damages for pain and suffering and punitive damages. Plaintiff's remaining claims are (1) breach of contract; (2) notification of COBRA benefits; (3) common law conspiracy; and

(4) Fifth and Fourteenth Amendment claims. It appears that Plaintiff's Motion to Amend is filed pursuant to Federal Rule of Civil Procedure 15.

Plaintiff's proposed claims for libel and slander are barred by the applicable statute of limitations because Plaintiff was discharged on March 20, 1998, and filed his Complaint on February 7, 2000. See 42 Pa. C.S.A. § 5523(1) (setting forth a one year statute of limitation for an action for libel, slander or invasion of privacy). Further, although the Defendants argue that Plaintiff's proposed claims for liability under section 1981 and intentional infliction of emotional distress are barred by the applicable statutes of limitations, these claims may relate back to the date of filing the original Complaint, pursuant to Federal Rule of Civil Procedure 15(c).<sup>1</sup> See Goodman v. Lukens Steel Co., 482 U.S. 656, 662 (1987)(holding the statute of limitations for a claim under section 1981 is two years from the

---

<sup>1</sup>Federal Rule of Civil Procedure 15(c) provides, in part:

An amendment of a pleading relates back to the date of the original pleading when  
(1) relation back is permitted by the law that provides the statute of limitations applicable to the action, or  
(2) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading.

FED. R. CIV. P. 15(c).

date of the alleged incident giving rise to the cause of action) and 42 Pa. C.S.A. § 5524(2),(7)(stating intentional infliction of emotional distress claims must be brought within two years from the date of their accrual).

When applying Rule 15, this Court must consider a number of factors, including:

[i]n the absence of any apparent or declared reason - such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc. - the leave sought should, as the rules require, be 'freely given.'

Lorenz v. CSX Corp., 1 F.3d 1406, 1413 (3d Cir. 1993)(quoting Foman v. Davis, 371 U.S. 178, 182 (1962)). These factors have been interpreted to mean that "[p]rejudice to the non-moving party is the touchstone for the denial of an amendment." Id. at 1414 (quoting Cornell & Co. v. Occupational Safety & Health Review Comm'n, 573 F.2d 820, 823 (3d Cir. 1978)).

Plaintiff's request to amend his Complaint for relief in the form of compensatory damages for pain and suffering is duplicative and unnecessary because the Plaintiff, in his Complaint, previously requested compensatory damages. See Compl., ¶ 67. In addition, the School District correctly argues that punitive damages are not recoverable against it. City of Newport v. Fact Concerts, Inc., 453 U.S. 247 (1981). Punitive

damages are also not available in breach of contract actions under Pennsylvania law. Superior Precast, Inc. v. Safeco Ins. Co., 71 F. Supp.2d 438, 452 (E.D. Pa. 1999)(citations omitted).

Plaintiff provides no explanation for his delay in submitting his proposed claims. Moreover, because discovery in this case has closed and the Plaintiff and all relevant witnesses have been deposed, the Defendants convincingly argue that allowing the Plaintiff to now amend his Complaint to add claims for punitive damages, compensatory damages, section 1981 and intentional infliction of emotional distress would significantly prejudice their ability to prepare a defense in this case.

An Order follows.

