

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

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|--|---|------------------|
| KATHRYN and MICHAEL HALL, | : | |
| Individually and as Parents, Natural Guardians | : | |
| and Court Appointed Guardians of | : | APRIL TERM, 2017 |
| RACHEL HALL and | : | |
| RACHEL HALL | : | NO. 3565 |
| Plaintiffs | : | |
| | : | |
| vs. | : | |
| | : | |
| TEMPLE UNIVERSITY OF THE | : | |
| COMMONWEALTH SYSTEM OF HIGHER | : | |
| EDUCATION, et al. | : | |
| Defendants | : | |

ORDER

And Now, this *09/11* day of January, 2019, upon consideration of Defendants, Temple University of the Commonwealth System of Higher Education, Temple University, and Temple University of the Commonwealth System of Higher Education Board of Trustees' Motion for Leave to Join Additional Defendants, Rshan Roberts, Kerry Brown and Rosalind Walker Brown, after consideration of the Plaintiffs' Response, and for the reasons set forth in Court Exhibit "A", attached hereto, it is hereby **ORDERED** that the Defendants' Motion is **DENIED in its entirety**.

BY THE COURT:~

Frederica A. Massiah-Jackson

 FREDERICA A. MASSIAH-JACKSON, J.

Hall Etal Vs City Of Ph-ORDER



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Court Exhibit “A”

The Temple University Defendants rely on Rule 2252 to seek leave to join three Additional Defendants to this litigation. Their Motion is meritless.

The date of the underlying accident was April 29, 2015. The Hall Plaintiffs initiated this premises liability action in April, 2017, prior to the run-date of the statute of limitations on April 29, 2017.

In Hileman v. Morelli, 605 A.2d 377 (Pa. Superior Ct. 1992), relied on by Temple University, the Appellate Court held that an Original Defendant may not bring another party into a lawsuit on a theory of “solely liable” if the Plaintiff is time-barred from such claim. 605 A.2d 382:

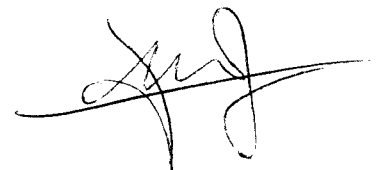
Although the joinder rights accorded an original defendant under Rule 2252 are broad, they are not unlimited. One such limitation lies at the heart of this case. It arises from the effect of the statute of limitations applicable to the plaintiff’s cause of action on the ability of an original defendant to join an additional defendant on the ground that the additional defendant is solely liable to plaintiff on its cause of action. It is well established that where an original defendant wishes to join an additional defendant who is *not* already a defendant in the action on the ground that the additional defendant is solely liable on the plaintiff’s cause of action, the original defendant must act within the statute of limitations applicable to the plaintiff’s cause of action.

Further, in Lawrence v. Meeker, 717 A.2d 1046 (Pa. Superior Ct. 1998) which has also been relied on by the Temple University Defendants, the Superior Court considered well-established precedent relating to the belated joinder requests, and held, inter alia, there must be proper grounds; there must be a reasonable excuse for the delay; and, joinder must not prejudice the Plaintiffs. 717 A.2d at 1048.

In the case at bar, the Hall Plaintiffs have identified the prejudice which would ensue with the proposed new causes of action, new theories and new strategies. Compare, Complaint Paragraphs 4-7, 20-25, 41-44. The Hall Plaintiffs confirm that the proposed Additional Defendants were known to the Original Defendants since 2015 and prior to the run-date of the statute of limitations. The Hall Plaintiffs correctly point out that the Temple University Defendants have failed to provide a reasonable excuse for the delay in commencing joinder proceedings “unexplained Motion”.

Finally, to the extent that the proposed Additional Defendants may be liable to the Original Defendants for contribution or indemnity, that is a separate cause of action which has not yet accrued. See Kelly v. Thackray Crane Rental, Inc., 874 A.2d 649 (Pa. Superior Ct. 2005); McClure v. Deerland Corporation, 585 A.2d 19 (Pa. Superior Ct. 1991); Beary v. Container General Corp., 568 A.2d 190 (Pa. Superior Ct. 1989), Schindler v. Raymond Co., 418 A.2d 533 (Pa. Superior Ct. 1980).

For all of the reasons set forth above, the Motion of the Temple University Defendants for Leave to Join Additional Defendants pursuant to Rule 2252 is DENIED in its entirety.

A handwritten signature in black ink, appearing to be a stylized name, located in the bottom right corner of the page.