



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

GRAHAM B. SPANIER,

Plaintiff,

v.

LOUIS J. FREEH AND FREEH SPORKIN
& SULLIVAN, LLP,

Defendants.

Docket No. 2013-2707

Type of Pleading:

**Preliminary Objection to
Plaintiff's Amended Complaint
by Defendants Louis J. Freeh
and Freeh Sporkin & Sullivan LLP**

Filed on behalf of Defendants

Counsel of Record for this Party:

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FILED

2013-05-01 PM 2:40

DEBORAH J. HANDEL
PROthonARY
CENTRE COUNTY, PA

NOTICE to Plaintiff:

You are hereby notified to file a written response to the enclosed Preliminary Objection by November 23, 2016 or a judgment may be entered Against You.

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

GRAHAM B. SPANIER,

Plaintiff,

v.

LOUIS J. FREEH AND FREEH SPORKIN
& SULLIVAN, LLP,

Defendants.

Docket No. 2013-0707

PROthonary
CENTRE COUNTY, PA

2016 11 23 10

**PRELIMINARY OBJECTION TO
PLAINTIFF’S AMENDED COMPLAINT BY DEFENDANTS
LOUIS J. FREEH AND FREEH SPORKIN & SULLIVAN LLP**

Defendants Louis J. Freeh and Freeh Sporkin & Sullivan LLP (“FSS”), by and through their undersigned attorneys, hereby submit this Preliminary Objection to the Amended Complaint filed by Plaintiff Graham Spanier, and in support thereof aver as follows:

1. This case arises out of the investigation performed by Louis J. Freeh and FSS into the child sexual abuse scandal perpetrated by Gerald A. “Jerry” Sandusky, a former assistant football coach at The Pennsylvania State University (“PSU” or “Penn State”).
2. Plaintiff filed his original Verified Complaint on February 10, 2016.
3. Defendants filed Preliminary Objections to the Verified Complaint on March 29, 2016, and Plaintiff responded on May 13, 2016.
4. On June 30, 2016, this Court held oral argument on Defendants’ Preliminary Objections.
5. On September 27, 2016, the Court granted in part and denied in part Defendants’ Preliminary Objections, sustaining Defendants’ objections as to Plaintiff’s tortious interference claim, holding that six of the nineteen statements complained of by Plaintiff were not defamatory, and dismissing Defendant Freeh Group International Solutions LLC from this case.
6. Despite this ruling, Plaintiff’s Complaint remains in substance nearly the same as the initial Complaint Plaintiff filed.
7. This Court has observed that the parties would be well served to meet and confer regarding narrowing the allegations in Plaintiff’s Complaint.

8. This Court first raised the length of Plaintiff's pleading before Plaintiff had even filed his Complaint with the Court.¹

9. During a hearing held on October 28, 2015, the Court again recognized the issue of the length of the Complaint, and counsel for Plaintiff represented that he would be amenable to discussions regarding streamlining the Complaint. *See* Oct. 28, 2015 Hearing Tr. at 55:16-56:25, attached as Ex. A.

10. Accordingly, on November 30, 2015, prior to the filing of Plaintiff's Complaint, counsel for Defendants reached out to counsel for Plaintiff and identified several extraneous paragraphs that counsel for Defendants suggested should be omitted from the Complaint.

11. Counsel for Plaintiff declined to remove those paragraphs from the Complaint.

12. On February 10, 2016, Plaintiff formally filed his Complaint.

13. Plaintiff's Complaint as filed contains numerous irrelevant and impertinent allegations.

14. Plaintiff's Amended Complaint also contains all of these irrelevant and impertinent allegations.

¹ The Court may recall that this case had been stayed, and Plaintiff originally filed a Proposed Complaint as an attachment to his Motion to Join Additional Parties in March 2015.

FIRST (AND ONLY) PRELIMINARY OBJECTION:
Failure to Conform to Law or Rule of Court

15. Plaintiff's Amended Complaint fails to comply with Pennsylvania pleading requirements.

16. As a result, Plaintiff's Amended Complaint fails under Pennsylvania Rule of Civil Procedure 1028(a)(2).

17. Much of Plaintiff's Amended Complaint consists not of "material facts," but rather of public relations material and attorney argument.

18. Moreover, Plaintiff's Amended Complaint violates Pennsylvania Rule of Civil Procedure 1019, which requires that "[t]he material facts on which a cause of action or defense is based shall be stated in a **concise and summary** form." Pa. R. Civ. P. 1019(a) (emphasis added).

19. Plaintiff's Amended Complaint does not state the material facts on which Plaintiff's cause of action is based in a concise and summary form.

20. The Amended Complaint also violates Pennsylvania Rule of Civil Procedure 1022, which requires that "[e]ach paragraph shall contain as far as practicable only one material allegation." Pa. R. Civ. P. 1022.

21. Throughout the entirety of Plaintiff's Amended Complaint, multiple allegations are combined in a single paragraph, rendering any response to the Amended Complaint difficult if not impossible.

22. Accordingly, for these reasons and those set forth more fully in the accompanying Memorandum of Law, Defendants respectfully request this Court to sustain Defendants' Preliminary Objection, and require Plaintiff to file a Second Amended Complaint that complies with Pennsylvania pleading requirements.

Respectfully submitted,

Dated: November 3, 2016



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LLP*

EXHIBIT A

1 the cases said. If the element of the
2 tortiousness of the interference is a
3 defamatory act, it is defamation.

4 Thank you, Your Honor.

5 THE COURT: Okay. I appreciate it.
6 Thank you all very much. Well done. I'm going
7 to direct that the record be transcribed,
8 hopefully as expeditiously as possible, and I
9 will render my opinion in the same fashion.

10 MR. CLARE: May I hand up the cases
11 that I referenced?

12 THE COURT: Please. Please see that
13 Suzanne has them, please.

14 MR. CLARE: I have copies for both.

15 THE COURT: Great. Thank you.

16 MR. HEIM: Your Honor, just one other
17 small housekeeping matter: I understand that
18 counsel for the plaintiff has been very busy
19 with another case, and I respect that very
20 much, but Your Honor will recall that when we
21 discussed the proposed complaint the last time,
22 counsel made a kind offer to talk with us about
23 maybe we could shorten this 400-some
24 paragraph brief.

25 THE COURT: And he hasn't spoken to

1 you?

2 MR. HEIM: He hasn't spoken to us yet,
3 but I'm certain that he will. I'm certain that
4 he will.

5 THE COURT: Okay.

6 MR. CLARE: My offer to talk with Mr.
7 Heim is open any time, although I'm not going
8 to play Go Fish with the paragraphs of my
9 complaint that he finds to be extraneous. If
10 he wants to identify the things, I would be
11 more than happy to talk and meet with him any
12 time.

13 THE COURT: You're asking that the
14 invitation to dinner come in that direction?

15 MR. CLARE: Correct.

16 (Laughter)

17 MR. CLARE: I'd be more than happy to
18 dine.

19 THE COURT: All right. Fair enough.

20 MR. HEIM: That was not my
21 understanding, but all right. I'll take him up
22 on it.

23 THE COURT: Okay. Thank you all very
24 much.

25 E N D O F P R O C E E D I N G S

CERTIFICATE OF SERVICE

I, David S. Gaines, Jr., hereby certify that I caused to be served on November 3, 2016, a true and correct copy of the foregoing by first-class mail upon the following:

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