

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of,

AHMAD AWAD, SOFIA DADAP, SAPPHIRA  
LURIE, and JULIE NORRIS,

Petitioners,

-against-

FORDHAM UNIVERSITY,

Respondent,

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules.

Index No. 153826/2017

Hon. Nancy M. Bannon

**MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' MOTION TO  
AMEND VERIFIED PETITION TO ADD PETITIONER**

Petitioners respectfully submit this Memorandum of Law in support of their Motion seeking leave to serve and file the Amended Verified Petition adding Veer Shetty as Petitioner upon Respondent Fordham University pursuant to C.P.L.R. 3025(b). A blacklined version of the Amended Verified Petition is annexed to the Affirmation of Maria LaHood, dated February 8, 2019, as Exhibit A, and a clean copy of the proposed Amended Verified Petition is attached as Exhibit B.

### **STATEMENT OF FACTS**

On April 26, 2017, Petitioners filed their original Petition asking this Court to direct Respondent to reinstate the decision of the United Student Government (“USG”) to approve Petitioners’ application to form an officially recognized club called Students for Justice in Palestine (“SJP”), which Respondent had overruled. The Petition further sets forth the Factual Background of the case.

On June 5, 2017, Respondent moved to dismiss the Petition, and briefing on the Motion to Dismiss concluded on July 17, 2017, when Respondent filed its Reply to Petitioners’ Opposition to its Motion to Dismiss.

On November 2, 2017, because of the urgent need for this Court to resolve their claims, Petitioners filed with this Court a Motion for Preliminary Injunction and Expedited Discovery. In Petitioners’ Memorandum of Law accompanying the Motion, they noted that Petitioners Awad and Lurie had already been denied the opportunity to participate in a student club of their choosing as a result of Respondent’s actions because they had graduated before this Court could adjudicate the merits of their claims. Petitioners Dadap and Norris sought this Court’s prompt

action in order to afford them the opportunity to participate in a fundamental aspect of campus life before they graduated.

This Court heard oral argument on both Motions on January 3, 2018 and took the case under submission. On August 10, 2018, counsel for the Petitioners wrote to the Court seeking to withdraw the portion of their Motion that sought relief on behalf of Ms. Dadap, who had by that time graduated.

The only remaining Petitioner who is still a student at Fordham, Ms. Norris, is expected to graduate in May 2019. See Affirmation of Maria LaHood in Support of Petitioners' Motion to Amend the Verified Petition ("LaHood Aff."), filed herewith, at ¶ 5. Veer Shetty is a sophomore at Fordham who wants to join an official club at his university called Students for Justice in Palestine. See Affidavit of Veer Shetty ("Shetty Aff."), filed herewith, at ¶¶ 2, 4. Mr. Shetty is unable to do so because Respondent Fordham has refused to recognize SJP.

On January 25, 2019, counsel for Petitioners wrote to counsel for Respondent requesting consent to this Motion to amend the Petition to add Mr. Shetty as a Petitioner, and on February 4, 2019, counsel for Respondent responded that Respondent is not inclined to consent to the amendment. See LaHood Aff. at ¶ 4.

### **ARGUMENT**

This Article 78 proceeding concerns Respondent Fordham University's decision to overrule the USG's decision approving Petitioners' application to form an officially recognized club called Students for Justice in Palestine ("SJP"). Petitioners seek this Court's leave to amend the Verified Petition pursuant to C.P.L.R. section 3025(b) to add Mr. Shetty, currently a sophomore student at Fordham University, as a Petitioner.

Leave to amend should be granted here as there is no prejudice or surprise to Respondent Fordham University and the amendment to add another Petitioner has merit. “Motions for leave to amend pleadings should be freely granted, absent prejudice or surprise resulting therefrom, unless the proposed amendment is palpably insufficient or patently devoid of merit.” *Y.A. v. Conair Corp.*, 154 A.D.3d 611, 612 (1st Dep’t 2017). *See also Fellner v. Morimoto*, 52 A.D.3d 352, 353 (1st Dep’t 2008) (motion to amend complaint granted where there was no undue delay, the claims sought to be added arose out of the same facts as original complaint, defendant would not be surprised or prejudiced by amendment, and the proposed amendment had merit); *Lanpont v. Savvas Cab Corp.*, 244 A.D.2d 208, 209 (1st Dep’t 1997) (“in the absence of surprise or prejudice, it is an abuse of discretion, as a matter of law, for the trial court to deny leave to amend [a pleading]”). In order to demonstrate prejudice, the opposing party must show that it “has been hindered in the preparation of his case or has been prevented from taking some measure in support of his position.” *Jacobson v. McNeil Consumer & Specialty Pharms.*, 68 A.D.3d 652, 655 (1st Dep’t 2009) (citing *Loomis v. Civetta Corinno Constr. Corp.*, 54 N.Y.2d 18, 23 (1981)).

The proposed amendment will not prejudice or surprise Fordham, and the amendment has merit. The purpose of this amendment is simply to ensure that the claims asserted in the Petition will not potentially be mooted by the graduation of the original Petitioners. Mr. Shetty, who wants to join an SJP club at Fordham, is not able to because Fordham has refused to recognize such a club. It would be futile for Mr. Shetty to apply to start an SJP club because Fordham has done nothing to indicate it has changed its position, which is the subject of this litigation. The claims and questions of law raised by Veer Shetty are identical to those raised by the original

Petitioners and they arise from the same exact nucleus of facts. *See Fellner* at 353. Therefore the amendment has merit, and will not prejudice Fordham.

**CONCLUSION**

For the foregoing reasons, Petitioners should be granted leave to amend the Verified Petition to add Veer Shetty as a Petitioner.

Dated: February 8, 2019

Respectfully submitted,



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