

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

RICHARD B. PRICE, et al.	:	August Term, 2002
	:	
Plaintiffs	:	No. 01529
v.	:	
	:	Commerce Program
PERRY SQUARE REALTY, et al.	:	
	:	Control Nos. 023063
	:	
Defendants.	:	

ORDER and MEMORANDUM

AND NOW, this 6th day of May 2003, upon consideration of Plaintiffs' Motion for Leave to Amend the Complaint (the "Motion"), all responses in opposition, the respective memoranda, and in accordance with the Memorandum Opinion being filed contemporaneously with this Order, it hereby is **ORDERED** and **DECREED** that said Motion is **GRANTED**.

Plaintiffs hereby are directed to file their Second Amended Complaint, in the form attached to the Motion as Exhibit "C," within ten (10) days from the date of entry of this Order. No other amendments will be permitted.

BY THE COURT:

C. DARNELL JONES, J.

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MEMORANDUM OPINION

C. DARNELL JONES, J.

Before the Court is Plaintiffs’ Motion for Leave to Amend the Complaint to add counts for intentional misrepresentation, intentional interference with existing and prospective contractual relations and trespass (the “Motion”). For the reasons fully set forth below, Plaintiffs’ Motion is **granted**.

DISCUSSION

Rule 1033 of the Pennsylvania Rules of Civil Procedure permits a party to amend its complaint either by filed consent of the adverse party or by leave of court. Pa.R.C.P. 1033. The rule also provides that “[t]he amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense.” Id. The trial court has broad discretion in determining whether to allow amendment. Capobianchi v. BIC Corp., 446 Pa. Super. 130, 666 A.2d 344, 346 (1995).

“Amendments are to be liberally permitted except where surprise or prejudice to the other party will result, or where the amendment is against a positive rule of law.” Burger v. Borough of

Ingram, 697 A.2d 1037, 1041 (Pa. Commw. 1997); Roach v. Port Auth. of Allegheny County, 380 Pa. Super. 28, 30, 550 A.2d 1346, 1347 (1988)("the right to amend the pleadings should not be withheld where some reasonable possibility exists that the amendment can be accomplished successfully.") For this reason, and because no evidence of prejudice has been presented which compels this Court to rule otherwise, Plaintiffs' Motion is granted.

CONCLUSION

For the above-stated reasons, this Court hereby grants Plaintiffs' Motion to Amend the Complaint. Plaintiffs hereby are directed to file their Second Amended Complaint, in the form attached to the Motion as Exhibit "C," within ten (10) days from the date of entry of this Order. No other amendments will be permitted.

This Court will enter a contemporaneous Order consistent with this Opinion.

BY THE COURT:

C. DARNELL JONES, J.

Dated : May 6, 2003