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

| | |
|---|---|
| BARRY J. FENCHAK,<br><br>Plaintiff,<br><br>vs.<br><br>THE PENNSYLVANIA STATE UNIVERSITY BOARD OF TRUSTEES AND MATTHEW SCHUYLER IN HIS OFFICIAL CAPACITY AS CHAIRMAN,<br><br>Defendants. | Docket No. 2024-CV-1843-CI<br><br>Type of Case: Civil Action - Equity<br><br>Type of Pleading: Praecipe to Attach Exhibit A to Preliminary Objections Amended Complaint<br><br>Filed on behalf of Defendants<br><br>Counsel of Record for Defendants:<br><br>**MARSHALL DENNEHEY, P.C.**<br><br>Christopher J. Conrad, Esquire<br>PA ID No. 202348<br>Gary H. Dadamo, Esquire<br>PA ID No. 93292<br>200 Corporate Center Dr. Ste 300<br>Camp Hill, PA 17011<br>Ph. 717-651-3531<br>Fax: 717-651-3707<br>cjconrad@mdwcg.com<br>ghdadamo@mdwcg.com |

FILED FOR RECORD BY EMAIL
2024 SEP 17 PM03 16
JEREMY S. BREON
PROTHONOTARY
CENTRE COUNTY, PA

**MARSHALL DENNEHEY, P.C.**
Christopher J. Conrad, Esquire
PA ID No. 202348
Gary H. Dadamo, Esquire
PA ID No. 93292
200 Corporate Center Drive, Suite 300
Camp Hill, PA 17011
Ph. 717-651-3531 /Fax: 717-651-3707
cjconrad@mdwcg.com
ghdadamo@mdwcg.com
*Attorneys for Defendant, Board of Trustees of the Pennsylvania State University, and Matthew Schuyler*

| | | |
|---|---|---|
| BARRY J. FENCHAK,<br>Plaintiff, | : | COURT OF COMMON PLEAS<br>CENTRE COUNTY, PENNSYLVANIA |
| v. | : | CIVIL ACTION |
| THE PENNSYLVANIA STATE UNIVERSITY BOARD OF TRUSTEES, and MATTHEW SCHUYLER IN HIS OFFICIAL CAPACITY AS CHAIRMAN,<br>Defendants. | : | NO. 2024-cv-1843-CI |

**DEFENDANTS' PRAECIPE TO ATTACH EXHIBIT "A" TO DEFENDANTS' PRELIMINARY OBJECTIONS TO PLAINTIFF'S AMENDED COMPLAINT**

TO THE PROTHONOTARY:

Kindly attach the attached Exhibit "A" to Defendants' Preliminary Objections to Plaintiff's Amended Complaint, which were previously filed of record on September 16, 2024. Exhibit "A" is referenced in Paragraph 103 of the Amended Complaint.

Respectfully Submitted,

**MARSHALL DENNEHEY, P.C.**

BY: */s/ Christopher J. Conrad*

Christopher J. Conrad, Esquire
PA ID No. 202348
Gary H. Dadamo, Esquire
PA ID No. 93292
200 Corporate Center Drive, Ste 300
Camp Hill, PA 17011
Ph. 717-651-3531 /Fax: 717-651-3707
cjconrad@mdwcg.com
ghdadamo@mdwcg.com

*Attorneys for Defendants, Board of Trustees of the Pennsylvania State University and Matthew Schuyler*

DATE: September 17, 2024

## CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provision of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Defendant Board of Trustees of the Pennsylvania State University, and Matthew Schuyler

Signature: */s/ Christopher J. Conrad*
Name: Christopher J. Conrad, Esquire

Attorney No. (if applicable): 202348

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served upon the following known counsel and parties of record this 17th day of September, 2024, **via email and regular mail**, as follows:

Justin J. Boehret, Esq.
Erika L. Silverbreit, Esq.
Terry L Mutchler, Esq.
Obermayer Rebmann Maxwell & Hippel LLP
Centre Square West
1500 Market Street, Suite 3400
Philadelphia, PA 19102-2101
Justin.boehret@obermayer.com

**MARSHALL DENNEHEY, P.C.**

BY: */s/ Christopher J. Conrad*
Christopher J. Conrad, Esquire
PA ID No. 202348
200 Corporate Center Dr., Ste. 300
Camp Hill, PA 17011
Ph.717-651-3531/ Fax 717-651-3707
cjconrad@mdwcg.com
*Attorneys for Defendants, Board of Trustees of the Pennsylvania State University and Matthew Schuyler*

DATE: September 17, 2024

# EXHIBIT A

PennState

**Board of Trustees**
The Pennsylvania State University
201 Old Main
University Park, PA 16802-1589

August 20, 2024

Mr. Barry J. Fenchak
596 Devonshire Drive
State College, PA 16803

Dear Barry,

We write in response to your August 16, 2024 request for the University's agreement with Elevate.

On multiple occasions, including April 18, 2024 and May 2, 2024, all trustees were provided with detailed information about the confidential financial guarantees and revenue share provision in the proposed arrangement with Elevate. Questions were posed by trustees and answered by University administrators regarding this information, as well as related to the reference checks conducted to confirm Elevate *bona fides*. As you know, the Board has received and will continue to receive regular updates on the Beaver Stadium renovation project, including information on ticket/seat sales.

While we welcome all trustees' efforts to prepare for and meaningfully participate in Board proceedings and fulfill their oversight obligations to the University, your request for this document is unreasonable, beyond that which is objectively necessary for you to discharge your duties as a trustee, and seeks information the University is not able to share due to legal obligations it has to Elevate. Furthermore, your repeated violations of your confidentiality obligations have created risk for the University that inform our decision not to provide the contract to you.

Under the terms of the University's agreement with Elevate, disclosure of the Agreement within the University is contractually restricted to those individuals who have a need to know such information in connection with the University's duties and obligations under the Agreement. In other words, disclosure of the Agreement within the University is limited to those persons tasked with carrying out the obligations in the Agreement including Penn State Finance operations that support those obligations.

Additionally, and despite your mischaracterization that such claims of confidentiality are "specious," the Elevate Agreement, and the framework of the Agreement itself, contains commercially sensitive information that Elevate has sought to protect. Your prior confidentiality breach related to Elevate – your disclosure of the existence of a confidential letter of intent between the University and Elevate in a public meeting of the Board in May 2024 – was raised by Elevate as a significant concern. Further sharing of confidential information by you could damage the University's relationship with Elevate.

We are available to discuss this further should you wish to do so.

Sincerely,

Matt Schuyler, Chair

David Kleppinger, Vice Chair