IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARRY FENCHAK, *Plaintiff*, v. THE PENNSYLVANIA STATE UNIVERSITY, et al., *Defendants*.	Civil Action No. 2:25-cv-06313-KSM

DEFENDANTS' MOTION TO DISMISS

Defendants The Pennsylvania State University, Matthew Schuyler, and David Kleppinger ("Defendants"), by and through their undersigned counsel, respectfully move to dismiss Plaintiff Barry Fenchak's ("Plaintiff" or "Mr. Fenchak") Complaint in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. As set forth in the contemporaneously filed brief, Plaintiff has failed to state cognizable claims for: (1) defamation per se; (2) presentation in false light/invasion of privacy; (3) breach of duty of confidentiality and loyalty; (4) violations of First Amendment free speech rights under 42 U.S.C. § 1983; and (5) violations of free speech rights under Article I, Section 7 of the Pennsylvania Constitution.

Defendants respectfully request oral argument on this motion.

WHEREFORE, Defendants respectfully request that the Court grant the motion and dismiss Plaintiff's Complaint with prejudice.

A proposed order will be emailed to chambers in accordance with Judge Marston's Policies and Procedures § II.A.7.

Dated: November 21, 2025

Respectfully submitted,

/s/ Andrew R. Stanton

Andrew R. Stanton (Pa. #93409)
Susan E. Kessler (Pa. #322558)
JONES DAY
500 Grant Street, Suite 4500
Pittsburgh, PA 15219
Tel: (412) 391-3939
Fax: (412) 394-7959
astanton@jonesday.com
skessler@jonesday.com

Counsel for Defendants, The Pennsylvania State University, Matthew Schuyler, and David Kleppinger

CERTIFICATE OF CONFERRAL

I HEREBY CERTIFY that on November 12, 2025, counsel for the parties met and conferred via telephone regarding the pleading deficiencies identified in the foregoing Defendants' Motion to Dismiss. The parties were unable to reach a resolution that would eliminate the need for this Motion.

Dated: November 21, 2025

/s/ Andrew R. Stanton
Andrew R. Stanton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 21, 2025, I electronically filed a true and correct copy of the foregoing Defendants' Motion to Dismiss and all supporting materials using the Court's CM/ECF system, which will generate a Notice of Electronic Filing that effects service on all counsel of record, L. Civ. R. 5.1.2(7)(a), and that I have caused copies of the same to be served on Plaintiff's counsel via email and by first-class mail, postage prepaid and addressed as follows:

Steven F. Marino, Esquire
Joseph Auddino, Esquire
301 Wharton Street
Philadelphia, PA 19147

Email:
smarino@marinoassociates.net
jauddino@marinoassociates.net

Dated: November 21, 2025

/s/ Andrew R. Stanton
Andrew R. Stanton