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ADAMS COUNTY  
CLERK OF COURT  
2026 FEB -9 AM 8:38

**IN THE COMMON PLEAS COURT OF ADAMS COUNTY, OHIO**  
**Civil Division**

**SHAWN COOLEY, et. al**

**: CASE NO. CVH 2023 0069**

**Plaintiffs,**

**: JONATHAN P. HEIN, CLERK**  
**Judge by Assignment**

**vs.**

**:**

**JOSEPH FOREMAN, et. al.**

**:**

**Defendants.**

**:**

**JUDGMENT ENTRY - Denying**  
**Defendants' Motion to Dismiss**

This matter came before the Court upon the motion by Defendants filed January 16, 2026 which asks for dismissal of the complaint due to Plaintiffs' failure to join necessary parties. \_\_\_\_\_ No response has been filed by the Defendants. The matter is ready for decision.

**Jurisprudence**

Upon review of their motion, Defendants' rely on the provisions of Civil Rule 19, which provides:

**RULE 19. Joinder of Persons Needed for Just Adjudication**

**(A) Persons to be joined if feasible.**

A person who is subject to service of process shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (a) as a practical matter impair or impede his ability to protect that interest or (b) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest, or (3) he has an interest relating to the subject of the action as an assignor, assignee, subrogor, or subrogee. If he has not been so joined, the court shall order that he be made a party upon timely assertion of the defense of failure to join a party as provided in Rule 12(B)(7). If the defense is not timely asserted, waiver is applicable as provided in Rule 12(G) and (H). If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an involuntary plaintiff. In the event that such joinder causes the relief sought to exceed the jurisdiction of the court, the court shall certify the proceedings in the action to the court of common pleas.

The analysis of the motion finds direction in the decision from the Supreme Court

of the United States in *Provident Tradesmens Bank & Tr. Co. v. Patterson*, 390 U.S. 102, 109–11 (1968) which is summarized as follows:

Rule 19(b) suggests four 'interests' that must be examined in each case to determine whether, in equity and good conscience, the court should proceed without a party whose absence from the litigation is compelled. Each of these interests must, in this case, be viewed entirely from an appellate perspective since the matter of joinder was not considered in the trial court. First, the plaintiff has an interest in having a forum. Before the trial, the strength of this interest obviously depends upon whether a satisfactory alternative forum exists. \* \* \* Second, the defendant may properly wish to avoid multiple litigation, or inconsistent relief, or sole responsibility for a liability he shares with another. \* \* \* Third, there is the interest of the outsider whom it would have been desirable to join. \* \* \* Instead, as Rule 19(a) expresses it, the court must consider the extent to which the judgment may 'as a practical matter impair or impede his ability to protect' his interest in the subject matter. \* \* \* Fourth, there remains the interest of the courts and the public in complete, consistent, and efficient settlement of controversies. [Internal footnotes and citations omitted.]

### **Analysis**

The factual basis for the motion is found in various portions of Plaintiffs' deposition testimony regarding damages they claim to have suffered. Most Plaintiffs expressed "non-economic damages" to their spouses, children, ex-spouses and family. One Plaintiff expressed damages to reputation suffered by the dams County Sheriff's Department.

For the following reasons, the Court finds that Defendants' motion to dismiss is without merit.

First, Defendants have not demonstrated they will suffer additional harm as a result of Plaintiffs' failure to join additional related parties as Plaintiffs. This is especially true at this stage in the litigation process since the statute of limitations has expired as to claims

which might have been brought by these family members. [In the case of minors where the statute of limitations may not yet act as a bar to their claims, the minors may still be subject to dismissal due to principles of *res judicata*.] Defendants are unlikely to suffer risk of future claims being brought by family members; they are unlikely to experience future litigation expenses or economic harm. [This analysis considers all four aspects of *Patterson, supra*.]

Second, dismissal of claims for failing to join necessary parties is not the preferred remedy. Instead, leave should be granted to join the necessary parties with an accompanying amended complaint. *State ex rel Bush v. Spurlock*, 42 Ohio St.3d 77 (1989). However, as explained above, the expired statute of limitations and principles of *res judicata* mitigate against dismissal of justiciable claims held by the named Plaintiffs.

Third, the motion as presented ignores the true issue to consider: relevancy of evidence. Within the scope of relevance, damages must be limited to those suffered by the claimants – not damages suffered by claimants and their family members. While the scope of questions asked during a discovery deposition may necessarily be broad, relevance for purposes of trial is more constrained. The Court anticipates directing witnesses to testimony only about their personal damages and to not testify about damages suffered by others, whether family members or otherwise. Similarly, the jury instructions will not include harm to family members or others within the description of compensable damages. [A cautionary instruction could be added, if necessary and requested, to clarify this issue if trial testimony indicates such need.]

**IT IS THEREFORE ORDERED AND DECREED** that Defendants' motion to dismiss is overruled.<sup>i</sup>

/s/ Jonathan P. Hein 02/07/2026

Jonathan P. Hein, Judge

cc: Robert A. Klingler, Esq., Attorney for Plaintiffs  
David C. Moser / Sarah L. McElroy, Attorneys for Plaintiffs  
David S. Osborne, Jr., Esq., Attorney for Defendants  
Arthur S. West, as amicus curiae  
David J. Carey/Amy R. Gilbert/Freda J. Levenson, for amicus curiae ACLU-Ohio  
Vera Eidelman, for amicus curiae ACLU

jph\research\civil\CivR-19 joinder

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<sup>i</sup> Based on the above analysis, the Court elects to not consider the timeliness of Defendants' motion as suggested in Plaintiff's pleading.