

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

COURTNIE PATTERSON, individually	)	
and on behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 20 C 7692
	)	
RESPONDUS, INC. and LEWIS UNIVERSITY,	)	Judge Rebecca R. Pallmeyer
	)	
Defendants.	)	
_____	)	

**DEFENDANT LEWIS UNIVERSITY'S  
MOTION FOR LEAVE TO FILE CROSSCLAIM**

Defendant, Lewis University by and through its attorneys, pursuant to Federal Rule of Civil Procedure 15(a)(2), moves this Court for leave to file its Crossclaim against Defendant Respondus, Inc., and in support thereof states as follows:

1. On December 15, 2020, Plaintiff filed her Complaint in this case. (ECF 1).
2. On April 6, 2022, Defendant Lewis University filed its Answer to Plaintiff's Complaint. (ECF 81).
3. Since the filing of its Answer, Defendant Lewis University has discovered additional information that give rise to crossclaims against Defendant Respondus, Inc. Defendant's proposed Crossclaim is attached hereto as Exhibit 1.
4. On November 18, 2022, the Court entered an order extending the deadline for fact discovery to April 20, 2023. (ECF 125).
5. The Seventh Circuit has adopted a liberal policy with respect to amending pleadings so that cases may be decided on their merits and not on the basis of technicalities. *Asher v. Harrington*, 461 F.2d 890, 895 (7th Cir. 1972); Federal Rule of Civil Procedure 15(a)(2) provides that before trial "the court should freely give leave [to amend] when justice so requires." The same

liberal standards apply in determining whether leave should be granted to add an omitted counterclaim under Federal Rule of Civil Procedure 13(f). *See King v. Enterprise Leasing*, 2006 WL 8437266, \*1 (N.D.Tex. July 17, 2006).

6. Leave to amend should be granted almost as a matter of course unless there is: (1) undue delay, bad faith, or dilatory motive on the part of the movant; (2) undue prejudice to the opposing party; or (3) the proposed amendment is futile. *E. Nat. Gas v. Aluminum Co. of Am.*, 126 F.3d 996, 999 (7th Cir. 1997). Undue prejudice is the most important factor. *Am. Hardware Mfrs. Ass'n v. Reed Elsevier*, 2006 WL 1895731, \*2 (N.D.Ill. July 6, 2006). As demonstrated below, these factors favor allowing Defendant to file its Crossclaim.

7. First, there is no undue delay, bad faith, or dilatory motive on the part of Defendant. This motion is filed withing the Court's deadline for amending pleadings.

8. Second, no party would suffer no meaningful prejudice if the Court were to grant this motion. The parties are still early in the discovery process. Even where discovery is closed, there is no undue prejudice if the court can cure the prejudice by reopening discovery. *Id.* at \*3. Here, however, discovery is ongoing. Thus, there is no undue prejudice to any party.

9. Third, the proposed crossclaims are not futile.

WHEREFORE, Lewis University respectfully requests the Court grant it leave to file the attached Crossclaim and for such additional or other relief as the Court deems just and appropriate.

December 12, 2022

TRESSLER LLP

/s/ Jennifer A. Dancy

TRESSLER LLP  
Darcy L. Proctor  
Jennifer A. Dancy  
233 S. Wacker Drive, 61<sup>st</sup> Floor  
Chicago, IL 60606  
312-627-4000 Phone  
312-627-1717 Fax  
[dproctor@tresslerllp.com](mailto:dproctor@tresslerllp.com)  
[jdancy@tresslerllp.com](mailto:jdancy@tresslerllp.com)

**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that she served a copy of **LEWIS UNIVERSITY'S MOTION FOR LEAVE TO FILE CROSSCLAIM** upon the attorneys listed below by electronic means 12th day of December 2022.

<p>Samuel J. Strauss Mary C. Turke Raina Borelli Brittany Resch TURKE &amp; STRAUSS LLP 613 Williamson Street, Suite 201 Madison, WI 53703 (608) 237-1775 sam@turkestrauss.com mary@turkestrauss.com raina@turkestrauss.com brittanyr@turkestrauss.com</p> <p>Brian K. Murphy Jonathan P. Misny MURRAY MURPHY MOUL + BASIL LLP 1114 Dublin Road Columbus, OH 43215 (614) 488-0400 murphy@mmb.com misny@mmb.com</p> <p>Anthony I. Paronich PARONICH LAW, P.C. 350 Lincoln Street, Suite 2400 Hingham, MA 02043 (508) 221-1510 anthony@paronichlaw.com Attorneys for Plaintiff</p>	<p>Matthew C. Wolfe William F. Northrip Tara D. Kennedy SHOOK, HARDY &amp; BACON L.L.P. 111 South Wacker Drive, Suite 4700 Chicago, IL 60606 Telephone: 312.704.7700 mwolfe@shb.com wnorthrip@shb.com tkennedy@shb.com</p> <p>Tristan L. Duncan (pro hac vice) SHOOK, HARDY &amp; BACON L.L.P. 2555 Grand Boulevard Kansas City, MO 64108 (816) 474-6550 tlduncan@shb.com Attorneys for Defendant Respondus, Inc</p>
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/s/ Jennifer A. Dancy  
Attorney for Lewis University