

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI**

STATE OF MISSOURI, EX INF.)	
ANDREW BAILEY,)	
ATTORNEY GENERAL,)	
)	
Relator,)	
)	
v.)	Case No. 2322-CC00383
)	
KIMBERLY M. GARDNER,)	
)	
Respondent.)	

**Motion for Leave to File Amended Petition in Quo Warranto, to
Schedule Hearing for Pending Motions, and to Schedule a Trial Date**

Comes now, the State of Missouri, on the information of Attorney General Andrew Bailey (“the State”), and seeks this Court’s leave to amend the petition for a writ of quo warranto and requests that the Court enter a scheduling order and set a trial date. The State offers the following in support:

1. On February 23, 2023, the State filed a petition in quo warranto to remove Respondent from her office for, among other things, her knowing failure to perform her job as the chief law enforcement officer of the City of St. Louis and her knowing failure to protect the people of St. Louis.

2. Since the suit was filed, and while discovery is ongoing, a number of witnesses have come forward with additional, significant information that supports the petition. Further, the State’s analysis of court files and statistical data has yielded new relevant facts.

3. Based on this newly-available information, the State seeks leave to file an amended petition on March 21, 2023.

4. Leave to amend pleadings “shall be freely given when justice so requires.” Rule 55.33; *see also Asmus v. Capital Region Family Practice*, 115 S.W.3d 427, 433 (Mo. App. 2003). The purpose of the rule is “to enable matters to be presented that were unknown to a party at the time he filed his original pleading.” *Id.* (citing *DeArmon v. City of St. Louis*, 525 S.W.2d 795, 802 (Mo. App. 1975)).

5. Respondent will not be prejudiced by the amendment. On the contrary, the amended petition will provide Respondent with notice of additional allegations that support the claims for her removal and notice of additional evidence that the State intends to rely on to prove those allegations. *See Asmus*, 115 S.W.3d at 433.

6. The amendment will also foster judicial economy. While Respondent’s motion to dismiss is without merit, there is no need for the Court to hold further briefing and argument on that motion since the State now intends to amend the original petition.

Wherefore, the State prays that this Court grant the State leave to file an amended petition, schedule all pending motions for hearing at the Court’s earliest convenience after March 21, 2023, set the matter for trial in June of 2023, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was electronically filed using the Case.net system on March 15, 2023. All counsel of record shall receive service of this filing by operation of the Case.net system.

/s/ Gregory M. Goodwin

Chief Counsel, Public Safety Section