

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

J.F. and R.F., Guardians over	:	
the Estate of L.G., a Minor	:	
	:	
v.	:	No. 379 C.D. 2024
	:	Submitted: October 9, 2025
City of Philadelphia and	:	
First Judicial District	:	
	:	
Appeal of: City of Philadelphia	:	

BEFORE: HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE STACY WALLACE, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WOJCIK

FILED: August 17, 2026

The City of Philadelphia (City) appeals the order of the Philadelphia County Court of Common Pleas (trial court) overruling its preliminary objections (POs) to the Second Amended Complaint (Complaint) filed by J.F. and R.F. (Guardians), as guardians of L.G. (Child), a minor, against the City and the First Judicial District (District) for their purported negligence that proximately caused injuries to Child. We affirm.

The relevant facts as alleged in the Complaint, which are assumed to be true, may be summarized as follows. L.G. was born on April 21, 2015, and moved in with her grandparents, Guardians, a few weeks later. Reproduced Record (RR) at 28a. In 2018, L.G.'s father, T.G., applied for physical custody. *Id.* Ultimately, T.G.

was awarded supervised physical custody visits with L.G., which took place in the District's Court Nursery. *Id.* At all relevant times, the City and the District promoted the Physical Custody Program, employed personnel to supervise and oversee the visits in the Nursery, and employed personnel to ensure that all rules regarding the visits were followed. *Id.* Specifically, representations were made by City and District personnel that T.G. and L.G. would be supervised while using the bathroom in the Nursery during the visits. *Id.* at 31a.

In compliance with the trial court's order, Guardians brought L.G. to the Nursery every Sunday, beginning on December 2, 2018, for supervised visits with T.G. RR at 30a. Shortly after the visits started, "L.G. began exhibiting 'unusual' behavior, including, among other things, having 'accidents' and urinating on herself, behavior which she had not exhibited previously and behavior which was indicative of sexual assault." *Id.* On May 29, 2019, after L.G. had participated in approximately 25 supervised visits, L.G. told Guardians that she was being sexually abused by T.G. during the visits. *Id.*

Guardians reported the abuse to the City's Department of Human Services (DHS), and L.G. was interviewed by the Philadelphia Children's Alliance (PCA) of the Philadelphia Police Department during a formal investigation. RR at 30a. Ultimately, the report was determined by DHS to be "unfounded," and the visitation continued. *Id.*

On August 13, 2019, L.G. disclosed that T.G. had taken pictures of her genitals with his cell phone while they were in the bathroom of the District's Nursery. RR at 31a. During DHS's investigation, an agent of the District and/or City "admitted to being aware of prior alleged incidents between [T.G.] and L.G., a minor," and "[y]et [DHS] took absolutely no steps to intervene, remediate and/or

prevent the sexual abuse from continuing” based on the representations of the District and the City. *Id.*

On September 17, 2019, L.G. underwent a second forensic interview with PCA, with DHS participating, and made additional specific disclosures of sexual abuse committed by T.G. RR at 32a. “But astonishingly, [DHS] again found the allegations to be ‘unfounded’ despite direct disclosure of the sexual abuse from L.G., despite multiple disclosures to L.G.’s therapist, [Special Victims Unit] officers, and family members, and despite continued behavior by L.G. indicating that such abuse was occurring.” *Id.*

Nevertheless, based on the trial court’s order, the visitation continued through the end of the year and into January of 2020. *See* RR at 32a-33a. Indeed,

[n]ot surprisingly, L.G. continued to report new instances of sexual violence inflicted upon her by [T.G.] during the visits, including after the visit of January 19, 2020, when L.G., a minor, reported that [T.G.] digitally penetrated her genitals while inside the bathroom at the [District’s] Nursery during that visit, an offense enumerated under [Section 5551(7) of the Crimes Code,] 42 Pa. C.S. §5551(7).

Id. at 33a. “Mercifully for L.G., a minor, the Supervised Physical Custody Visits at the [District’s] Nursery were suspended in March 2020[,] due to the onset of the COVID-19 pandemic.” *Id.*

On February 9, 2022, the trial court granted Guardians shared legal custody and primary physical custody of L.G. RR at 34a. “In making its ruling on February 9, 2022, the [trial c]ourt determined ‘by a preponderance of the evidence that [T.G.] committed sexual abuse against the child.’” *Id.* Additionally, the [trial c]ourt found that “lax supervision during [the] period of supervised visitation,

proved by a preponderance of the evidence that [T.G.] had numerous opportunities to be alone with the child during the periods of supervised partial custody.” *Id.*

Ultimately, Guardians filed the Complaint seeking damages from the District¹ and the City for their purported negligence with respect to the court-ordered visitation of L.G. by T.G. *See* RR at 19a-47a. The City filed POs to the Complaint, alleging, *inter alia*, that it is immune from liability under the Sovereign Immunity Act (Immunity Act),² and that the ninth exception in the Political Subdivision Tort Claims Act (Tort Claims Act)³ waiving such immunity does not apply to negligence

¹ The District is not a party in this appeal.

² 1 Pa. C.S. §2310. The Immunity Act states, in relevant part:

Pursuant to section 11 of [a]rticle 1 of the Constitution of Pennsylvania, it is hereby declared to be the intent of the General Assembly that the Commonwealth, and its officials and employees acting within the scope of their duties, shall continue to enjoy sovereign immunity and official immunity and remain immune from suit except as the General Assembly shall specifically waive the immunity. When the General Assembly specifically waives sovereign immunity, a claim against the Commonwealth and its officials and employees shall be brought only in such manner and in such courts and in such cases as directed by the provisions of Title 42 (relating to judiciary and judicial procedure)

In turn, Section 8541 of the Judicial Code provides: “Except as otherwise provided in this subchapter, no local agency shall be liable for any damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof or any other person.” 42 Pa. C.S. §8541.

³ 42 Pa. C.S. §8542(b)(9). Section 8542(b)(9) states, in pertinent part:

(b) Acts which may impose liability.--The following acts by a local agency or any of its employees may result in the imposition of liability on a local agency:

(Footnote continued on next page...)

claims involving third-party sexual assaults such as those perpetrated by T.G. herein. On March 5, 2024, the trial court issued the instant order overruling the City's POs, and the City filed this appeal.⁴

The sole claim raised by the City on appeal⁵ is that the trial court erred in overruling the City's POs because it is immune from liability under Section 8542(b)(9) of the Tort Claims Act. Specifically, the City asserts that this waiver requires that the sexual abuse that was perpetrated on L.G. be committed by a City employee. However, this Court recently rejected the City's specific claim of error in this regard, clearly holding that the City can be jointly liable despite the actions of a third-party tortfeasor such as T.G. in *L.F.V. v. South Philadelphia High School*, 340 A.3d 395, 410-11 (Pa. Cmwlth.), *petition for allowance of appeal granted*, 350

* * *

(9) *Sexual abuse*.--Conduct which constitutes an offense enumerated under section 5551(7) [of the Crimes Code] (relating to no limitation applicable) if the injuries to the plaintiff were caused by actions or omissions of the local agency which constitute negligence.

⁴ By May 15, 2024 order, we directed the parties to address the appealability of the trial court's order. However, it is clear that the trial court's order overruling the City's POs in this case is an appealable collateral order under Pa.R.A.P. 313. *Hommrich v. Boscola*, 329 A.3d 775, 785 (Pa. Cmwlth. 2025).

⁵ Our review of a trial court's order sustaining POs and dismissing the Complaint is limited to determining whether the trial court abused its discretion or committed an error of law. *Public Advocate v. Brunwasser*, 22 A.3d 261, 266 n.5 (Pa. Cmwlth. 2011). In reviewing POs, "we deem all material facts averred in the complaint, and all reasonable inferences that can be drawn therefrom, to be true." *Commonwealth by Shapiro v. Golden Gate National Senior Care LLC*, 194 A.3d 1010, 1022 (Pa. 2018). "The purpose of our inquiry is to determine the legal sufficiency of the complaint and whether the pleading would permit recovery if ultimately proven." *Id.* "When sustaining the trial court's ruling will result in the denial of claim or a dismissal of suit, [POs] will be sustained only where the case is free and clear of doubt." *Id.* (internal quotation and citation omitted).

A.3d 50 (Pa. 2025);⁶ *L.B. v. Leechburg Area School District* (Pa. Cmwlth., No. 1156 C.D. 2023, filed October 20, 2025).⁷ No persuasive argument has been presented by the City compelling this Court to distinguish this recent binding precedent.

Accordingly, the trial court's order is affirmed.

MICHAEL H. WOJCIK, Judge

Judge Fizzano Cannon did not participate in the decision of this case.
Judge Dumas did not participate in the decision of this case.

⁶ Recently, the Supreme Court granted allocatur in *L.F.V.* to consider the following issue:

Did the Commonwealth Court err in concluding that the [n]inth [e]xception to the broad immunity granted political subdivisions under the Tort Claims Act, 42 Pa. C.S. §8542(b)(9), applies to claims premised on sexual abuse committed by individuals who are not employed by the political subdivision?

Id.

⁷ *See also* Pa.R.A.P. 126(b)(1)-(2) (“As used in this rule, ‘non-precedential decision’ refers to . . . an unreported memorandum opinion of the Commonwealth Court filed after January 15, 2008. Non-precedential decisions . . . may be cited for their persuasive value.”).

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ORDER

AND NOW, this 17th day of August, 2026, the order of the Philadelphia County Court of Common Pleas is AFFIRMED.

MICHAEL H. WOJCIK, Judge