IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Kelly Conard,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 610 M.D. 2024
	:	Submitted: May 12, 2026
Commonwealth of Pennsylvania Pennsylvania State Police Human Resources, Human Resources; Mary Walters, Dennis Hile, Joseph Tripp, Pennsylvania State Police Human Resource Assistant 2, PSP Records Coordinator Public Safety Human Resource Delivery Center, and John/Jane/Doe et al.,	:	
	:	
Respondents	:	

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WOJCIK FILED: November 13, 2026

In the latest iteration of an ongoing course of litigation,[1] before the Court are the Preliminary Objections (POs) filed by the Commonwealth of

[1] As a federal Magistrate Judge has noted:

> In life and in litigation, there ultimately comes a time to let go and a time to move on. So it is here. The plaintiff, Kelly Conard,

(Footnote continued on next page…)

Pennsylvania, the Pennsylvania State Police (PSP), and a number of named individuals working for the PSP (collectively, Respondents) directed to the Petition for Review (PFR) filed *pro se* in our original jurisdiction by Kelly Conard (Petitioner) against those parties. Upon careful review, we sustain the POs and dismiss the PFR.

In the PFR, Petitioner alleges a decades-long pattern of retaliatory conduct beginning after she attempted to return to PSP employment following her 2002 retirement. Petitioner asserts that PSP Human Resources initially reinstated her in 2005, but rescinded the offer after one of the named Respondents appeared during an interview with a background investigator. PFR ¶¶31-32. She contends that Respondents have since provided negative and false employment references to

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> retired from the Pennsylvania State Police in 2002, more than twenty years ago. In 2006 and in 2015, Conard twice sued the State Police alleging that they had, *inter alia*, retaliated against her based upon her prior complaints and litigation against that state agency. Conard's 2015 lawsuit made precisely the same claim advanced in the instant case; namely, Conard alleged that the State Police retaliated against her by providing her new employers with negative job references. Both of these prior lawsuits were dismissed and these dismissals have been affirmed by the Court of Appeals. Undeterred by this past history of futility, Conard, who is proceeding *pro se*, now brings this third retaliation claim against the State Police, a claim that she pursues some two decades after her retirement, sixteen years after she filed her first unsuccessful retaliation lawsuit, seven years after Conard lodged her second failed retaliation claim, and some three years after the Court of Appeals affirmed the dismissal of the last of these prior lawsuits.
>
> As discussed below, we find that this complaint shares the fate of its predecessors over the past two decades in that it fails to state a claim upon which relief may be granted.

Conard v. Pennsylvania State Police (M.D. Pa., No. Civil No. 1:22-CV-1121, filed March 17, 2023), slip op. at 1.

prospective employers, preventing her from securing employment. *Id.* ¶¶5, 52, 68-69. Petitioner pleads claims of defamation, internet defamation, First Amendment retaliation, fraudulent misrepresentation, and denial of due process, *id.* at 2, seeking monetary compensation for lost wages, benefits, and retirement. *Id.* ¶132.

Petitioner acknowledges that she previously litigated substantially similar claims in federal court in 2006, 2015, and 2022, each time alleging retaliatory negative references. PFR ¶¶9-10. As indicated, those actions were dismissed. Petitioner now asserts that the federal judgments are void due to what she describes as "extrinsic fraud," alleging the concealment of disciplinary information concerning an alleged unlawful firearm transfer by one of the named Respondents, *id.* ¶¶17-20, and further contends she was denied due process when the federal court declined to reopen her cases. *Id.* ¶¶83-84. In the POs, Respondents argue that the PFR must be dismissed based upon sovereign immunity, Eleventh Amendment immunity, res judicata, collateral estoppel, lack of jurisdiction, and pleading deficiencies.

In general, under Pennsylvania's fact-pleading requirements, a petitioner must plead material facts in a concise and summary form. Pa.R.Civ.P. 1019(a). The PFR spans 138 paragraphs and hundreds of pages of exhibits, but it does not specify which factual averments support which legal theories. The narrative includes extensive historical detail unrelated to the individual causes of action, *see* PFR ¶¶12-27, 63-82, and often attributes alleged misconduct to "Respondents" collectively, without identifying the individual actor. *See id.* ¶¶5, 52. Additionally, the PFR fails to identify whether the Respondents are sued in their official or individual capacities, an essential distinction for claims raised under the federal statute 42 U.S.C. §1983 (Section 1983). *See Kozicki v. Unemployment Compensation Board of Review*, 299 A.3d 1055, 1063 (Pa. Cmwlth. 2023) ("'Under

Pennsylvania law, *pro se* [litigants] are subject to the same rules of procedure as are represented [litigants]. Although the courts may liberally construe materials filed by a *pro se* litigant, *pro se* status confers no special benefit upon a litigant, and a court cannot be expected to become a litigant's counsel or find more in a written *pro se* submission than is fairly conveyed in the pleading.'") (citations omitted). Thus, even though Petitioner is *pro se*, she must comply with the Rules of Civil Procedure. As such, Respondents' PO for insufficient specificity is well founded. *See* Pa.R.Civ.P. 1028(a)(3) ("Preliminary objections may be filed by any party to any pleading and are limited to the following grounds: . . . insufficient specificity in a pleading.").

The PFR also fails to comply with Pa.R.Civ.P. 1020(a), which states, in pertinent part, that "[t]he [petitioner] may state in the complaint more than one cause of action cognizable in a civil action against the same defendant. Each cause of action and any special damage related thereto shall be stated in a separate count containing a demand for relief." While Petitioner identifies several causes of action, *see* PFR at 2, the PFR does not separate them into counts and includes only a general request to "be made whole." PFR ¶132. Stated simply, the PFR's structure does not satisfy Rule 1020(a). *See Commonwealth v. Parisi*, 873 A.2d 3, 9 (Pa. Cmwlth. 2005) ("The Rules of Civil Procedure allow a plaintiff to file more than one cause of action against the same defendant. Pa. R.Civ.P 1020. Each claim, however, must be presented in a self-sufficient separate count, which includes averments of facts pertaining to the particular claim and relief sought. *Id.*") (citations omitted). As a result, this PO is likewise meritorious. *Parisi*.

Respondents further argue that sovereign immunity under Title 1 Pa. C.S. §2310[2] and Eleventh Amendment immunity compel dismissal. The PSP, as a Commonwealth agency, and its employees acting within the scope of their duties are immune from suit except where the General Assembly has expressly waived immunity by statute. Petitioner asserts intentional torts of defamation and fraudulent misrepresentation at PFR at 2, which fall outside the statutory exceptions to immunity. *See, e.g.*, *Schell v. Guth*, 88 A.3d 1053, 1066-67 (Pa. Cmwlth. 2014) ("'Generally, sovereign immunity protects Commonwealth officials and employees acting within the scope of their duties from civil liability.' This protection extends to claims for intentional torts.") (citation omitted). The PFR simply does not allege that the Respondents acted outside the scope of their employment.

In addition, Section 1983 claims against PSP and employees sued in their official capacity are barred by the Eleventh Amendment.[3] Although Petitioner

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[2] Title 1 Pa. C.S. §2310 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) . . . unless otherwise specifically authorized by statute.

[3] As this Court has recently explained:

> The Eleventh Amendment to the U.S. Constitution, which states that "[t]he [j]udicial power of the [U.S.] shall not be construed to extend to any suit in law or equity, commenced or prosecuted

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claims "extrinsic fraud," *see* PFR ¶¶17-20, she cites no authority establishing that fraud abrogates sovereign or Eleventh Amendment immunity. As a result, we conclude that these POs will be sustained.

Respondents next argue that Petitioner's claims are barred by res judicata. Pennsylvania courts apply claim preclusion where there is identity of the cause of action, the thing sued upon, the parties, and the capacities in which they appear. *J.S. v. Bethlehem Area School District*, 794 A.2d 936, 939 (Pa. Cmwlth. 2002). Petitioner concedes that her prior federal actions involved the same allegations of retaliatory negative references. PFR ¶¶9-10. PSP and the individual Respondents were parties or privies in those cases. The federal courts issued final judgments on the merits. A federal judgment precludes relitigation of the same cause of action in state court. *Robinson v. Fye*, 192 A.3d 1225, 1231 (Pa. Cmwlth. 2018). Petitioner invokes *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), and *United States v. Throckmorton*, 98 U.S. 61 (1878), arguing that alleged "extrinsic fraud" renders the federal judgments void. Yet those cases make clear that fraud-on-the-court challenges must be brought in the rendering court. Thus, the judgments remain in place and are entitled to full preclusive effect. *Robinson*, 192 A.3d at 1232. The res judicata PO will therefore be sustained.

> against one of the [U.S.] by [c]itizens of another [s]tate, or by [c]itizens or [s]ubjects of any Foreign State[,]" U.S. Const. amend. XI, similarly "bars federal lawsuits against states and their agencies unless sovereign immunity has been expressly waived," and "extends to a state official acting in his or her official capacity . . . ." *Flagg v. Int*[*ernationa*]*l Union*, 146 A.3d 300, 306-07 (Pa. Cmwlth. 2016).

Page v. Rogers, 324 A.3d 661, 676 n.27 (Pa. Cmwlth. 2024).

Collateral estoppel likewise applies. The federal courts have previously resolved issues concerning whether Respondents' alleged negative references constituted actionable retaliation and whether Petitioner presented sufficient evidence to prevail. Those issues were essential to the federal judgments and Petitioner had a full and fair opportunity to litigate them. *See* PFR ¶¶82-84. Although Petitioner again asserts extrinsic fraud, *see id.* ¶¶17-20, the federal judgments have not been vacated and remain binding. We will therefore sustain the PO based on collateral estoppel.

Finally, Respondents argue that this Court lacks original jurisdiction over Petitioner's claims. Under Section 761(a)(1)(v) of the Judicial Code, 42 Pa. C.S. §761(a)(1)(v), this Court lacks jurisdiction over actions in the nature of trespass including intentional torts, and over claims for monetary damages under Section 1983. *Hill v. Department of Environmental Protection*, 679 A.2d 773, 774 (Pa. 1996). Petitioner's claims for defamation, fraudulent misrepresentation, and monetary civil-rights damages fall squarely within this exclusion. Petitioner asserts that this Court may exercise ancillary jurisdiction because PSP is a Commonwealth agency, but ancillary jurisdiction attaches only where an original-jurisdiction claim survives, and none survive here. *See Smith v. Pennsylvania Board of Probation and Parole*, 349 A.3d 477, 480-81 (Pa. Cmwlth. 2025) ("A matter is not ancillary until the [C]ourt's jurisdiction is actually being exercised—hypothetical appellate authority does not render the matter incidental."). Respondents' jurisdictional objection must therefore be sustained. In sum, following review of the parties' filings and the applicable law, we conclude that Respondents' POs will be sustained, and the PFR will be dismissed.

Accordingly, the Respondents' POs are sustained, and the PFR is dismissed.

MICHAEL H. WOJCIK, Judge

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O R D E R

AND NOW, this 13th day of November, 2026, Respondents' preliminary objections are SUSTAINED, and Petitioner's *pro se* Petition for Review filed in the above-captioned matter is DISMISSED.

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MICHAEL H. WOJCIK, Judge