

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Deborah R. Malloy and	:	
Edward C. Malloy,	:	
Petitioners	:	
	:	
v.	:	
	:	
Andrea Britt Tuominen, Esq.,	:	
Pennsylvania Court Administrator,	:	No. 616 M.D. 2024
Respondent	:	Submitted: June 16, 2026

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM

FILED: September 15, 2026

Before this Court are Pennsylvania Court Administrator Andrea Britt Tuominen, Esquire's (Respondent) preliminary objections (Respondent's Preliminary Objections) to Deborah R. Malloy's and Edward C. Malloy's (collectively, Petitioners) pro se Amended (Ninth) Complaint in the Nature of an Action in Mandamus and Action for Performance of a Duty Required by Law Relief and Aiding and Abetting Fraud (Complaint). Also before this Court is Petitioners' preliminary objection to Respondent's Preliminary Objections (Petitioners' Preliminary Objection). After review, this Court overrules Petitioners' Preliminary Objection, sustains Respondent's Preliminary Objections, and dismisses the Complaint.

Background

In 2015, Petitioners filed an action in the Delaware County Common Pleas Court (Common Pleas) against numerous defendants (2015 Litigation)¹ over

¹ See Docket No. CV-2015-011267.

which Common Pleas' judges - Honorable Barry C. Dozor (Judge Dozor), Honorable G. Michael Green (Judge Green), and their replacement, Chester County Common Pleas Court Senior Judge, Honorable Robert J. Shenkin (Senior Judge Shenkin) (collectively, Common Pleas Judges), now disqualified,² previously presided.³ See Complaint ¶¶ 44-48, 139, 180-211.

In 2021, Petitioners filed a complaint in mandamus in Common Pleas seeking to compel former Pennsylvania Court Administrator H. Geoffrey Moulton, Jr. (Moulton) to notify the Judicial Conduct Board (JCB), pursuant to Pennsylvania Rule of Judicial Administration (Rule) 703(G)(1),⁴ that Judge Dozor and Judge

² Petitioners repeatedly reference in the Complaint that the Common Pleas Judges were *removed*, but do not state why they were removed.

³ Although

“[a] court may not ordinarily take judicial notice in one case of the records of another case, whether in another court or its own, even though the contents of those records may be known to the court[.]” *Styers v. Bedford Grange Mut. Ins. Co.*, 900 A.2d 895, 899 (Pa. Super. 2006) (quoting *220 P’ship v. Phila. Elec. Co.*, . . . 650 A.2d 1094, 1097 ([Pa. Super.] 1994)), a limited exception to that general rule allows “a court [considering preliminary objections] to take notice of a fact which the parties have admitted[,] or which is incorporated into the [complaint] by reference to a prior court action.” *Guarrasi v. Scott*, 25 A.3d 394, 398 n.3 (Pa. Cmwlth. 2011) (quoting *Styers*, 900 A.2d at 899). Here, [Petitioners] referenced and incorporated [the 2015 Litigation] in [their Complaint]. See [Complaint ¶¶ 44-48, 139, 180-211].

Boyd v. Pa.’s Sent’g Scheme for Sent’g 18 Year Old’s to Mandatory Life without Parole, 311 A.3d 63, 65 n.3 (Pa. Cmwlth. 2024), *aff’d*, 335 A.3d 1125 (Pa. 2025).

⁴ Rule 703(A) declared the Pennsylvania Supreme Court’s (Supreme Court) policy that matters before the Unified Judicial System shall “be brought to a fair conclusion as promptly as possible, consistent with the character of the matter and the resources of the system[.]” and the Supreme Court implemented rules to help it “oversee the prompt and proper disposition of the business of the Pennsylvania courts.” Pa.R.J.A. 703(A). To that end, Rule 703(B)(2) specifies, in relevant part: “Every judge shall compile a semi-annual report stating whether the judge has any matter that has been submitted to the judge for decision and remains undecided for [90] days or more as of the last day of the reporting period.” Pa.R.J.A. 703(B)(2). Rule 703(G)(1) provides: “The Court Administrator of Pennsylvania shall immediately notify the [JCB] if a judge fails to file a timely report as required by [] [R]ule [703].” Pa.R.J.A. 703(G)(1).

Green failed to report and/or timely report decisions in the 2015 Litigation that remained undecided after 90 days.⁵ *See Malloy v. Moulton* (Common Pleas Docket No. CV-2021-003730), transferred to this Court’s original jurisdiction as *Malloy v. Moulton* (Pa. Cmwlth. No. 493 M.D. 2021) (*Moulton I*).⁶ On September 30, 2022, Petitioners initiated another mandamus action against Moulton in Common Pleas seeking to compel him to comply with Rule 703 by reporting Senior Judge Shenkin to the JCB. *See Malloy v. Moulton* (Common Pleas Docket No. CV-2022-007291).⁷

⁵ Petitioners imply that they possess Judge Green’s and Judge Dozor’s Rule 703 Reports, but did not attach them to the Complaint because they “wanted to see if [Respondent] would attach” them. *See* Complaint ¶ 76. In *Malloy v. Moulton* (Common Pleas Docket No. CV-2021-003730) (*Moulton I*), Petitioners admitted they had the subject Rule 703 Reports. *See* Amended Petition for Rev. ¶ 57 (Petitioners “do not produce the [Rule] 703 Reports here due to confidentiality concerns.”).

⁶ This Court may take judicial notice of that litigation. In their Complaint, Petitioners referenced and incorporated *Malloy v. Moulton* (Common Pleas Docket No. CV-2021-003730), which Common Pleas eventually transferred to this Court’s original jurisdiction. *See Moulton I*; *see also* Complaint ¶¶ 1-2, 44-48, 52, 82, 131, 135, 207. In *Moulton I*, after Petitioners filed their fifth amended complaint and a motion to transfer the matter to the proper forum in Common Pleas, Moulton filed preliminary objections. Common Pleas sustained Moulton’s preliminary objections and dismissed that action with prejudice and denied the transfer request. *See Malloy v. Moulton* (Common Pleas Docket No. CV-2021-003730). On appeal from the Common Pleas’ order, on July 16, 2024, the Supreme Court ruled that this Court has original jurisdiction over mandamus actions against the Pennsylvania Court Administrator. *See Malloy v. Moulton* (Pa. No. 166 MT 2024, filed July 16, 2024). Accordingly, Common Pleas transferred that matter to this Court. *See Moulton I*. On December 17, 2025, this Court sustained Moulton’s preliminary objection that Petitioners lacked traditional and taxpayer standing and dismissed Petitioners’ fifth amended complaint. *See id.* This Court also dismissed Petitioners’ April 16, 2024 Motion to Enforce the Code of Conduct for Employees of the Unified Judicial System (UJS ECOC) (Motion to Enforce), - wherein Petitioners asserted that Respondent, as Moulton’s successor, violated the UJS ECOC by failing to comply with Rule 703 - because Petitioners lacked standing to bring the Motion to Enforce. On December 29, 2025, Petitioners filed an application for reconsideration which this Court denied on January 13, 2026. On January 14, 2026, Appellants appealed from this Court’s dismissal to the Supreme Court. *See* Pa. No. 4 MAP 2026. That appeal remains pending.

⁷ This Court may take judicial notice of that litigation. In their Complaint, Petitioners referenced and incorporated *Malloy v. Moulton* (Common Pleas Docket No. CV-2022-007291). *See* Complaint ¶¶ 45-48, 82-83. In that matter, after Petitioners filed an amended complaint to which Moulton filed preliminary objections on the basis that Common Pleas lacked jurisdiction, Common Pleas heard oral argument and, thereafter, sustained Moulton’s preliminary objections

After Moulton retired, Petitioners initiated this litigation by complaint filed in Common Pleas on January 25, 2024, against Respondent,⁸ seeking to compel her, as Moulton's successor,⁹ to notify the JCB, pursuant to Rule 703(G)(1), that the Common Pleas' Judges failed to report decisions that remained pending after 90 days. After Petitioners filed eight amended complaints in response to which Respondent filed preliminary objections, on December 31, 2024, Petitioners filed the Complaint, which consists of 3 counts (Count I - Mandamus; Count II - Mandamus Damages; Count III - Aiding and Abetting Fraud). On January 14, 2025, Common Pleas ordered the transfer of the matter to this Court's original jurisdiction pursuant to the Pennsylvania Supreme Court's (Supreme Court) July 16, 2024 ruling that this Court has original jurisdiction over mandamus actions against the Pennsylvania Court Administrator. The actual transfer occurred on April 23, 2025.

On July 10, 2025, Respondent filed her Preliminary Objections to the Complaint, therein asserting: (1) Petitioners lack standing to bring a mandamus action against Respondent; (2) the doctrine of *lis pendens* bars Petitioners' serial litigation because they raise herein the same issues and claims against Respondent that they previously raised against Moulton in Common Pleas Docket No. CV-2021-003730, which was then pending decision by this Court in *Moulton I*; (3) Petitioners failed to state legally viable mandamus and aiding and abetting fraud claims against Respondent; and (4) sovereign immunity bars Petitioners' claims.

and dismissed the action. Petitioners did not appeal from Common Pleas' dismissal. Rather, Petitioners filed a petition to transfer the matter, which Common Pleas dismissed as moot by order dated July 15, 2024 (entered July 25, 2024). Petitioners appealed from the latter order to this Court, which affirmed Common Pleas' order. *See Malloy v. Moulton* (Pa. Cmwlth. No. 970 C.D. 2024, filed Mar. 23, 2026). Petitioners requested reconsideration, which this Court denied on May 13, 2026.

⁸ *See* Complaint; *see also* Common Pleas Docket No. CV-2024-000924.

⁹ Moulton retired on September 30, 2023. Respondent succeeded Moulton and is the current Pennsylvania Court Administrator.

On August 8, 2025, Petitioners filed their Preliminary Objection to Respondent's Preliminary Objections, arguing therein that Pennsylvania Rule of Civil Procedure (Civil Rule) 1030, Pa.R.Civ.P. 1030, required Respondent to assert her sovereign immunity defense in new matter, rather than in the Preliminary Objections.^{10, 11} On September 8, 2025, Respondent filed her answer to Petitioners' Preliminary Objection, therein asserting that Respondent's Preliminary Objections are in the nature of demurrer, Petitioners lack standing to bring this claim, Petitioners have no legal rights at stake, this Court cannot mandate the Court Administrator's discretionary conduct, and immunities may be raised by preliminary objection when the defenses are clear from the Complaint. On December 16, 2025, this Court ordered the parties to file briefs supporting their respective Preliminary Objections, which they did. In Respondent's brief, she changed her *lis pendens* objection to a *res judicata/collateral estoppel* claim because, on December 17, 2025, this Court

¹⁰ On July 28, 2025, Petitioners filed an Application for Relief - Requesting Service be Compelled (Service Application), wherein they asked this Court to direct Respondent's counsel to serve Respondent's Preliminary Objections on them by certified mail and amend Respondent's accompanying proof of service to so reflect. On July 29, 2025, Respondent opposed the Service Application, asserting that Respondent served her Preliminary Objections by first class mail, and after receiving the Service Application, re-mailed the Preliminary Objections by traceable mail and also emailed the Preliminary Objections to Petitioners on July 29, 2025. By Partial Service Acknowledgment filed on August 4, 2025, Petitioners acknowledged they received Respondent's Preliminary Objections, but not Respondent's supporting brief, wherein Respondent claimed she would develop her sovereign immunity argument. By October 21, 2025 Order, this Court dismissed Petitioners' Service Application as moot.

¹¹ On August 4, 2025, Petitioners filed an Application for Relief - Requesting Severance and Transfer (Severance Application), therein acknowledging that this Court lacks jurisdiction over their Aiding and Abetting Fraud claims, sounding in tort and/or seeking money damages, and requesting that this Court transfer that portion of their litigation back to Common Pleas for disposition. On August 15, 2025, Respondents opposed Petitioners' Severance Application. On October 21, 2025, this Court denied Petitioners' Severance Application, declaring that this matter had already been transferred from Common Pleas, it is an action against a Commonwealth officer subject to immunity limitations, and Petitioners raised the aiding and abetting fraud claim in the Complaint and it arose from the same alleged conduct.

dismissed Petitioners’ action against Moulton in *Moulton I* because they lacked standing.¹² Both parties’ Preliminary Objections are ripe for this Court’s disposition.

Discussion

Initially,

[i]n ruling on preliminary objections, [this Court] must “accept as true all well-pleaded material allegations in the [complaint],” as well as inferences reasonably deduced therefrom. *Garrison v. Dep’t of Corr.*, 16 A.3d 560, 563 n.5 (Pa. Cmwlth. 2011). Th[is] Court need not accept as true conclusions of law, “unwarranted inferences from facts, argumentative allegations, or expressions of opinion.” *Id.* To sustain preliminary objections, “it must appear with certainty that the law will not permit recovery, and any doubt should be resolved by a refusal to sustain them.” *Torres v. Beard*, 997 A.2d 1242, 1245 (Pa. Cmwlth. 2010).

A preliminary objection in the nature of a demurrer admits well-pleaded facts and inferences reasonably deduced therefrom in order to test the legal sufficiency of a [complaint]. *Id.* A demurrer can “be sustained only in cases where the pleader has clearly failed to state a claim for which relief can be granted.” *Id.*

Robinson v. Pa. Parole Bd., 306 A.3d 969, 972 n.7 (Pa. Cmwlth. 2023), *aff’d*, 328 A.3d 467 (Pa. 2024). “Thus, th[is C]ourt may determine only whether, on the basis

¹² In her brief, Respondent states:

To the extent this Court did not consider its[] own decision as a final judgment pending Petitioners’ appeal to the Supreme Court . . . , the doctrine of *lis pendens* still applies. Petitioners have already brought the same claims and raised the same underlying issues against the same or similar defendants/respondents time and again. Petitioners seek identical relief in this case and the recently dismissed [*Moulton I*], which they [ha]ve appealed to the Supreme Court.

Respondent’s Br. at 23-24.

of the [petitioner's] allegations, he or she possesses a cause of action recognized at law.” *Fraternal Ord. of Police Lodge No. 5, by McNesby v. City of Phila.*, 267 A.3d 531, 541 (Pa. Cmwlth. 2021).

Petitioners’ Preliminary Objection

Petitioners object to Respondent’s use of preliminary objections to assert her sovereign immunity defenses in violation of Civil Rule 1030.

Civil Rule 1030(a) specifies, in pertinent part: “[A]ll affirmative defenses[,] including but not limited to[,] the defenses of . . . immunity from suit . . . shall be pleaded in a responsive pleading under the heading ‘New Matter[.]’” Pa.R.Civ.P. 1030(a).

As [this Court has] explained previously,

although [Civil Rule] 1030 provides affirmative defenses are to be raised as new matter, if it is clear from the face of the complaint that a suit is barred by the defense of immunity[,] the case may be dismissed on preliminary objections. *Wurth by Wurth v. City of Phila.*[], . . . 584 A.2d 403 ([Pa. Cmwlth.] 1990). The rationale for this exception is to avoid unnecessary delay if the complaint is clearly barred by the doctrine of immunity.

Logan v. Lillie, 728 A.2d 995, 998 (Pa. Cmwlth. 1999) (holding that “it was proper for the trial court to consider the doctrine of immunity on preliminary objections” where defendants’ status as judicial officers rendered the applicability of the defense of sovereign immunity “clear from the face of the complaint”); *see also Faust v. Dep’t of Revenue*, 592 A.2d 835, 838 n.3 (Pa. Cmwlth. 1991) (explaining that “sovereign immunity is an affirmative defense which ordinarily should be raised as new matter, but may be raised in preliminary objections when to delay a ruling thereon would serve no purpose”); *Feldman v. Hoffman*, 107 A.3d 821, 832 (Pa. Cmwlth. 2014) (trial court may consider immunity defense raised by preliminary objections even where “plaintiff *did object* . . .

where no purpose would be served by a delay in ruling on the matter and it would expedite disposition of the case”).

Chasan v. Stevens (Pa. Cmwlth. No. 169 C.D. 2021, filed July 26, 2022), slip op. at 16;¹³ *see also R.H.S. v. Allegheny Cnty. Dep’t of Hum. Servs., Off. of Mental Health*, 936 A.2d 1218, 1227 (Pa. Cmwlth. 2007) (“[C]ourts permit limited exception to the general rule and allow parties to plead the affirmative defense of immunity as a preliminary objection.”); *Stackhouse v. Pa. State Police*, 892 A.2d 54, 60 n.7 (Pa. Cmwlth. 2006) (“Sovereign immunity . . . may be raised in preliminary objections when to delay a ruling thereon would serve no purpose.”). Moreover, where a petitioner does not allege that a Commonwealth officer was acting outside the scope of his/her employment, a court may sustain a preliminary objection to a fraud claim based on sovereign immunity. *See Brown v. Wetzel*, 179 A.3d 1161 (Pa. Cmwlth. 2018).

Here, where it is evident on the face of the Complaint that sovereign immunity bars Petitioners’ aiding and abetting fraud claims against Respondent in her capacity as the Pennsylvania Court Administrator who succeeded Moulton, delaying a ruling thereon would serve no purpose. Accordingly, Petitioners’ Preliminary Objection is overruled.

Respondent’s Preliminary Objections

Lis Pendens/Res Judicata - Mandamus

Respondent argues that Petitioners lack standing to bring this action against the Pennsylvania Court Administrator, since, even if it were true that the Common Pleas Judges failed to file timely reports of their outstanding cases under

¹³ This Court’s unreported memorandum opinions filed after January 15, 2008, may be cited “for [their] persuasive value, but not as binding precedent.” Section 414(a) of the Commonwealth Court’s Internal Operating Procedures, 210 Pa. Code § 69.414(a). *Chasan* is cited herein for its persuasive value.

Rule 703 several years ago, Petitioners are not legally aggrieved, since they lack a substantial, direct, immediate, and non-remote interest in Respondent notifying the JCB, and a common citizen has no standing to assert what he/she believes to be the common interest of all citizens in procuring obedience to the law. Respondent also asserts that Petitioners failed to state a legally valid mandamus claim.

“In seeking judicial resolution of a controversy, a party must establish as a threshold matter that he has standing to maintain the action.” *Stilp v. Gen. Assembly*, 940 A.2d 1227, 1233 (Pa. 2007). “[T]he core concept of standing is that a person who is not adversely affected in any way by the matter he seeks to challenge is not aggrieved thereby and has no standing to obtain a judicial resolution of his challenge.” *Fumo v. City of Phila.*, 972 A.2d 487, 496 (Pa. 2009). “An individual can demonstrate that he has been aggrieved if he can establish that he has a substantial, direct[,] and immediate interest in the outcome of the litigation.” *Id.*

A substantial interest in the outcome of litigation is one that surpasses the common interest of all citizens in procuring obedience to the law. A direct interest requires a causal connection between the asserted violation and the harm complained of. An interest is immediate when the causal connection is not remote or speculative.

Phantom Fireworks Showrooms, LLC v. Wolf, 198 A.3d 1205, 1215 (Pa. Cmwlth. 2018) (citations omitted).

Here, although Petitioners spent a significant portion of their Complaint reciting how the Common Pleas Judges acted improperly, Petitioners’ mandamus relief relates solely to Respondent’s action/inaction as Pennsylvania’s Court Administrator. Petitioners ask this Court to compel Respondent to comply with Rule 703(G)(1)’s requirement to immediately notify the JCB that the Common Pleas Judges failed to file and/or timely file their Rule 703 reports. Respondent contends that preclusion doctrines - *lis pendens* or *res judicata* - bar Petitioners’ claims against

her because they are based upon the same issues and claims made against Moulton in *Moulton I* that this Court dismissed.

Indeed, in their Complaint in this matter, Petitioners assert the same or similar allegations against Respondent in her capacity as the current Pennsylvania Court Administrator as they did against Moulton in *Moulton I* in his capacity as the then-current Pennsylvania Court Administrator. In *Moulton I*, this Court concluded that since compelling Moulton to report the Common Pleas Judges to the JCB would not benefit Petitioners in the 2015 Litigation and, aside therefrom, they only raised a common interest of all citizens in procuring obedience to the law, they were not aggrieved and, thus, lacked traditional standing to bring that mandamus action against Moulton. *See id.* This Court also ruled that Petitioners lacked taxpayer standing¹⁴ to bring a mandamus action against Moulton because, *inter alia*, Petitioners had redress available insofar as they could have filed complaints against the Common Pleas Judges in the JCB, and/or reported Moulton to the Office of Disciplinary Counsel (ODC).¹⁵ *See id.* The *Moulton I* Court further held:

¹⁴ Taxpayer standing requires the party asserting it to satisfy five factors:

- (1) the governmental action would otherwise go unchallenged;
- (2) those directly and immediately affected by the complained of matter are beneficially affected and not inclined to challenge the action;
- (3) judicial relief is appropriate;
- (4) redress through other channels is unavailable; and
- (5) no other persons are better situated to assert the claim.

Phantom Fireworks, 198 A.3d at 1216 (quoting *Pa. Fed'n of Dog Clubs v. Commonwealth*, 105 A.3d 51, 58 (Pa. Cmwlth. 2014), *aff'd*, 115 A.3d 309 (Pa. 2015)).

¹⁵ The ODC is the body tasked with investigating complaints by individuals (including private citizens) of attorney misconduct and determining whether the allegations warrant formal disciplinary action before the Supreme Court's Disciplinary Board, which oversees the professional conduct of attorneys and ensures compliance with ethical standards.

Notwithstanding [Petitioners' lack of standing], **this Court cannot grant mandamus relief.**

To state a claim for mandamus, a petitioner **must establish** the following three elements: (1) **a clear legal right to relief in the petitioner**; (2) **a corresponding duty in the respondent**; and (3) **the lack of any other adequate and appropriate remedy.** *Wilson v. Pa. Bd. of Prob. & Parole*, 942 A.2d 270, 272 (Pa. Cmwlth. 2008). “Mandamus is not available to establish legal rights but only to enforce rights that have been established.” *Smires v. O'Shell*, 126 A.3d 383, 387 (Pa. Cmwlth. 2015) (citations omitted).

Baron v. Dep't of Hum. Servs., 169 A.3d 1268, 1272 (Pa. Cmwlth. 2017) (emphasis added), *aff'd*, 194 A.3d 563 (Pa. 2018). Further, “where any doubt exists, mandamus relief will not lie.” *Kegerise v. Delgrande*, 183 A.3d 997, 1004 (Pa. 2018).

Here, although Moulton has a statutory duty to notify the JCB of judicial violations of Rule 703, Petitioners have failed to show they have any clear legal right to relief in Moulton failing to do so, if in fact he failed to do so, and they had other adequate and appropriate remedies to ensure that Moulton complied with Rule 703(G)(1). Therefore, **Petitioners failed to satisfy the criteria necessary for this Court to grant mandamus relief.**

Moulton I, slip op. at 12 n.18 (emphasis added). Lastly, the *Moulton I* Court dismissed Petitioners' April 16, 2024 Motion to Enforce the Code of Conduct for Employees of the Unified Judicial System (UJS ECOC) (Motion to Enforce) - wherein Petitioners asserted that Respondent, as Moulton's successor, violated the UJS ECOC by failing to comply with Rule 703 - on the basis that Petitioners likewise “lack[ed] standing to have this Court enforce the UJS ECOC against Moulton and/or his successor.” *Moulton I*, slip op. at 15. Accordingly, this Court has previously ruled that Petitioners lack standing to bring - and, in any event, could not succeed in

- a mandamus action against the Pennsylvania Court Administrator under Rule 703.¹⁶

In the Complaint, Petitioners aver, *inter alia*, that “[Rule] 703(G)(1) requires [the] Pennsylvania Court Administrator . . . to immediately notify the [JCB] that removed [Common Pleas Judges] . . . failed to TIMELY file required judicial reports, continue to fail to correct reports falsely claiming no matters awaited decision, and/or continue to fail to file untimely [sic] reports.” Complaint ¶ 215; *see also* Complaint ¶¶ 14, 16. “[Respondent] became the Pennsylvania Court Administrator on or around October 1, 2023. After patiently waiting for more than ten (10) months for replacement Pennsylvania Court Administrator[, Respondent,] . . . [Petitioners] are constrained to file [the Complaint].” Complaint ¶ 104; *see also* Complaint ¶ 131 (Moulton was Respondent’s “immediate predecessor[.]”); Complaint ¶ 175 (“Only [Respondent] can comply with [Rule] 703(G)(1) because she is the only Pennsylvania Court Administrator.”); Complaint ¶ 176 (“[Moulton] can no longer be compelled to comply with [Rule] 703(G)(1) because . . . he stopped being the Pennsylvania Court Administrator.”).

The doctrine of *lis pendens*, i.e. pendency of a prior action, applies when, in the previously filed case, the parties are the same, the rights are the same and the requested relief is the same. The doctrine of *lis pendens* protects defendants from the harassment of having to defend several suits on the same cause of action at the same time.

The application of *lis pendens* is purely a question of law. The court must determine whether the causes of action arose from the same transaction or occurrence, that is, whether the claims involve a common factual background or common legal question.

¹⁶ Petitioners’ appeal from *Moulton I* is pending before the Supreme Court.

Swift v. Radnor Twp., 983 A.2d 227, 234 (Pa. Cmwlth. 2009) (italic emphasis omitted).

Similarly,

[r]es judicata - literally, a thing adjudicated - is a judicially-created doctrine. *See Est[.] of Bell*, . . . 343 A.2d 679, 681 ([Pa.] 1975). It **bars actions on** a claim, or **any part of a claim, which was the subject of a prior action, or could have been raised in that action**. *See R/S Fin[.] Corp. v. Kovalchick*, . . . 716 A.2d 1228, 1230 ([Pa.] 1998); *Balent v. City of Wilkes-Barre*, . . . 669 A.2d 309, 313 ([Pa.] 1995). Th[e Supreme] Court has explained that

. . . . The doctrine of res judicata [was] developed to shield parties from the burden of re-litigating a claim with the same parties, or a party in privity with an original litigant, and to protect the judiciary from the corresponding inefficiency and confusion that re-litigation of a claim would breed.

Wilkes ex rel. Mason v. Phoenix Home Life Mut. Ins. Co., . . . 902 A.2d 366, 376 ([Pa.] 2006) (citation omitted); *see also R/S Financial*, . . . 716 A.2d at 1230 (“The purposes of the rule are the protection of the litigant from the dual burden of relitigating an issue with the same party or his privy and the promotion of judicial economy through prevention of needless litigation.” (quoting *Foster v. Mut. Fire, Marine & Inland Ins. Co.*, . . . 676 A.2d 652, 661 ([Pa.] 1996))).

Four elements common to both actions, sometimes termed the “four identities,” *see, e.g., Est[.] of Tower*, . . . 343 A.2d 671, 674 ([Pa.] 1975), must be present for *res judicata* to apply: “an identity of issues, an identity of causes of action, identity of persons and parties to the action, and identity of the quality or capacity of the parties suing or being sued.” *In re Iulo*, . . . 766 A.2d 335, 337 ([Pa.] 2001) (citing *Safeguard Mut. Ins. Co. v. Williams*, . . . 345 A.2d 664, 668 ([Pa.] 1975)).

In re Coatesville Area Sch. Dist., 244 A.3d 373, 378-79 (Pa. 2021) (footnote and italic emphasis omitted).

Here, the cause of action - mandamus judgment directing the Pennsylvania Court Administrator to comply with Rule 703 and report the Common Pleas Judges to the JCB - is the same as in *Moulton I*; the issue - whether Petitioners have standing to assert a mandamus action against the Pennsylvania Court Administrator - is the same; and the requested relief - order for the Pennsylvania Court Administrator to comply with Rule 703 as to the Common Pleas Judges - is the same.

The only discernable difference between *Moulton I* and this matter is the name of the Pennsylvania Court Administrator. However, this Court has explained: “Issue preclusion . . . applies to and is binding, not only on actual parties to the litigation, but also on those who are in privity with them.” *Montella v. Berkheimer Assocs.*, 690 A.2d 802, 804 (Pa. Cmwlth. 1997). “Privity is broadly defined as ‘mutual or successive relationships to the same right of property, or such an identification of interest of one person with another as to represent the same legal right.’” *Id.* (quoting *Ammon v. McCloskey*, 655 A.2d 549, 554 (Pa. Super. 1995)). Successive officeholders sued in their official capacity maintain that identical quality even though the individual has changed. *See Verrichia v. Dep’t of Revenue*, 639 A.2d 957, 963 (Pa. Cmwlth. 1994) (“[T]he official-capacity suit is treated as a suit against the state. In these situations when an official sued in this capacity dies or leaves office, the successor automatically assumes the role in the litigation. . . . [T]he real party in interest in an official-capacity suit is the governmental entity and not the named official”); *see also Khalil v. Cole*, 240 A.3d 996, 1003 n.9 (Pa. Super. 2020) (“This issue would arise in suits against government actors in their official capacity with some regularity; it is not uncommon for superintendents of state correctional institutions to be named in habeas actions, for instance. The replacement of a superintendent would not render an otherwise-identical habeas petition somehow new or different.”). As Petitioners acknowledged in *Moulton I*

and in the Complaint, Respondent was Moulton's successor as Pennsylvania Court Administrator. As Moulton's successor, Respondent was in privity with Moulton. Thus, the identity of the parties - Petitioners and the Pennsylvania Court Administrator - is also the same.

Accordingly, where Petitioners' standing has not changed since this Court decided *Moulton I*, lis pendens and/or res judicata bar Petitioners from raising a mandamus action against Respondent. Based on the foregoing, Petitioners lack standing to bring this mandamus action against Respondent¹⁷ and, even if they did have standing, they failed to state a legally valid mandamus claim. *See Moulton I*. Accordingly, Respondent's Preliminary Objections that lis pendens/res judicata bar Petitioners' mandamus and mandamus damages claims are sustained.

¹⁷ The *Moulton I* Court concluded that Petitioners lacked taxpayer standing to bring a mandamus action against the Pennsylvania Court Administrator because, *inter alia*, Petitioners had redress available insofar as they could have reported Moulton and/or Respondent to the ODC. In this Complaint, Petitioners added that they "reported [Respondent's] illegal conduct to the [Supreme Court's] Disciplinary Board[(Disciplinary Board), which] . . . reasoned that since the Pennsylvania Court Administrator is not always an attorney[, Respondent] is not subject to the Disciplinary Board's jurisdiction." Complaint ¶ 20; *see also* Complaint ¶ 82. To support their claim that a jury trial is necessary, Petitioners further allege: "At times the Pennsylvania Court Administrator is not a lawyer. Therefore, the Disciplinary Board has no jurisdiction over the Pennsylvania Court Administrator." Complaint ¶ 230. Assuming Petitioners' claims that they reported Respondent to the ODC, but the ODC declined to accept a complaint against the Pennsylvania Court Administrator are true, as this Court must, *see Robinson*, then Petitioners could possibly overcome the taxpayer standing requirement that other redress channels against Respondent are unavailable. *See Phantom Fireworks*. However, where in *Moulton I* and this case Petitioners lacked standing because, *inter alia*, they "failed to express an interest they have in their mandamus action 'that surpasses the common interest of all citizens in procuring [Moulton's] obedience to [Rule 703(G)(1),]'" *Moulton I*, slip op. at 8 (quoting *Phantom Fireworks*, 198 A.3d at 1215), there certainly may be "other persons [] better situated to assert the claim." *Phantom Fireworks*, 198 A.3d at 1216 (quoting *Pa. Fed'n of Dog Clubs*, 105 A.3d at 58). Accordingly, Petitioners still lack taxpayer standing.

Demurrer/Sovereign Immunity

Respondent also argues that Petitioners' inclusion of Complaint Count III - Aiding and Abetting Fraud - does not cure the deficiencies of their eight previous complaints. Respondent specifically claims that she is entitled to sovereign immunity and Petitioners have failed to state a viable legal action for aiding and abetting fraud.

In Count III, Petitioners assert that Respondent has actual knowledge that the Common Pleas Judges are committing fraud and, by refusing to report their Rule 703 violations, Respondent is aiding and abetting such fraud, which has harmed Petitioners (court costs, reputational harm, and emotional distress), the court system, and Pennsylvania citizens as a result. *See* Complaint ¶¶ 227-288. Petitioners demand a jury trial, compensatory and punitive damages, interest, costs, attorney's fees¹⁸ and expenses, and such other relief as this Court may deem appropriate. *See* Complaint ¶ 288.

This Court has explained:

Pursuant to [a]rticle [I], [s]ection 11 of the Pennsylvania Constitution, [PA. CONST. art. I, § 11,] the General Assembly declared 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.' 1 Pa.C.S. § 2310. This Court has held that **'when an employee of a Commonwealth agency was acting within the scope of his or her duties, the Commonwealth employee is protected by sovereign immunity from the imposition of liability for intentional tort claims.'** *La Frankie v. Miklich*, . . . 618 A.2d 1145, 1149 ([Pa. Cmwlth.] 1992). This Court determines whether a Commonwealth employee is

¹⁸ Petitioners are pro se.

protected by sovereign immunity by considering ‘whether the . . . employee was acting within the scope of his or her employment; whether the alleged act which causes injury was negligent and damages would be recoverable but for the availability of the immunity defense; and whether the act fits within one of the [10] exceptions to sovereign immunity.’ *Id.*

Minor [v. *Kraynak*], 155 A.3d [114,] 121-22 [(Pa. Cmwlt. 2017)] (footnote omitted; emphasis added).

Brown, 179 A.3d at 1166. “[S]tate employees do not lose their immunity for intentional torts, provided they are acting within the scope of their employment.” *Kull v. Guisse*, 81 A.3d 148, 157 (Pa. Cmwlt. 2013). “[C]onduct constituting . . . fraud . . . or willful misconduct is considered to be outside the employee’s scope of employment for immunity purposes.” *Id.* at 154. Thus, where, as here, Petitioners do not allege that Respondent was acting outside the scope of her employment, this Court may sustain a preliminary objection to a fraud claim based on sovereign immunity. *See Brown*. Accordingly, Respondent’s Preliminary Objections on the basis of sovereign immunity and failure to state a valid fraud claim are sustained.

Conclusion

Petitioners’ Preliminary Objection to Respondent’s Preliminary Objections is overruled. Respondent’s Preliminary Objections to Petitioners’ Complaint are sustained. Petitioners’ Complaint is dismissed with prejudice.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Deborah R. Malloy and	:	
Edward C. Malloy,	:	
Petitioners	:	
	:	
v.	:	
	:	
Andrea Britt Tuominen, Esq.,	:	
Pennsylvania Court Administrator,	:	No. 616 M.D. 2024
Respondent	:	

PER CURIAM

O R D E R

AND NOW, this 15th day of September, 2026, Deborah R. Malloy's and Edward C. Malloy's (collectively, Petitioners) Preliminary Objection to Pennsylvania Court Administrator Andrea Britt Tuominen, Esquire's (Respondent) preliminary objections (Respondent's Preliminary Objections) to Petitioners' Amended (Ninth) Complaint in the nature of an Action in Mandamus and Action for Performance of a Duty Required by Law Relief and Aiding and Abetting Fraud (Complaint) is OVERRULED. Respondent's Preliminary Objections are SUSTAINED. Petitioners' Complaint is DISMISSED with prejudice.