

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

NOU MOUA, ADMINISTRATRIX OF THE ESTATE OF GER MOUA

:

IN THE SUPERIOR COURT OF PENNSYLVANIA

Appellant

v.

WELLSPAN HEALTH D/B/A WELLSPAN YORK HOSPITAL AND YORK HOSPITAL D/B/A WELLSPAN YORK HOSPITAL AND WELLSPAN YORK HOSPITAL

No. 1690 MDA 2025

Appeal from the Order Entered October 28, 2025
In the Court of Common Pleas of York County Civil Division at No(s):
2025-SU-001008

BEFORE: PANELLA, P.J.E., NICHOLS, J., and NEUMAN, J.

MEMORANDUM BY NEUMAN, J.:

FILED SEPTEMBER 25, 2026

Appellant, Nou Moua, administratrix of the estate of Ger Moua, appeals from the trial court's order sustaining the preliminary objections filed by Appellees, WellSpan Health d/b/a WellSpan York Hospital, York Hospital d/b/a WellSpan York Hospital, and WellSpan York Hospital.¹ We affirm.

Background

We glean the following background from the record. On March 17, 2025, Administratrix initiated this action by filing a praecipe to issue writ of summons. After being served, on April 2, 2025, Appellees filed a praecipe for rule to file a complaint within twenty days.

¹ We refer to Nou Moua as "Administratrix," and Ger Moua as "Decedent" herein.

Thereafter, on April 16, 2025, Administratrix filed a motion to compel responses to pre-complaint discovery and stay the rule to file a complaint. In the motion, Administratrix explained Appellees were served with pre-complaint discovery in the form of a set of interrogatories and a request for production of documents. Motion, 4/16/25, at ¶ 2. According to Administratrix, on April 2, 2025, Appellees responded to the discovery requests, objecting to all twenty-one interrogatories and all sixteen document requests. ***Id.*** at ¶ 4. Administratrix claimed the discovery requests sought information material to preparing the complaint, in which Administratrix would allege that employees, agents, servants, and representatives of Appellees engaged in a hateful, malicious, racist, and wicked course of bullying and harassing conduct against their co-worker, Decedent, that led Decedent to take his own life. ***Id.*** at ¶¶ 5-6. Administratrix said she requested, for example, the personnel file of Decedent, as well as the personnel files of those believed to be the antagonists; employee handbooks; lists of names of employees that worked closely with Decedent and the alleged antagonists; and statements acquired through any relevant investigation. ***Id.*** at ¶ 7. On April 11, 2025, Administratrix said she conferred with Appellees, whereby Appellees stated they would send a response addressing Administratrix's concerns, but Appellees have yet to address the request for an extension in the deadline to file a complaint. ***Id.*** at ¶ 9. Thus, Administratrix requested the trial court direct Appellees to provide complete and verified answers to the discovery requests, and stay the rule to file a complaint. ***Id.*** at 5.

On April 23, 2025, the trial court entered an order, in which it stated it would hold Administratrix's motion in abeyance for three weeks to allow the parties to continue to discuss a resolution to the motion. Order, 4/23/25. It also directed that Administratrix's complaint shall be filed within twenty days after Appellees provide their discovery responses either by agreement to a resolution or upon further order of court. ***Id.***

On May 30, 2025, Administratrix filed a complaint, bringing a vicarious liability claim and survival action against Appellees. In the complaint, she made the following allegations: Appellees employed Decedent as a biomedical equipment technician from December 27, 2021 to October 5, 2023. Complaint, 5/30/25, at ¶¶ 4-5. During his employment, Decedent worked in close physical proximity to coworkers Danny Tesch, John Chronister, Jeffrey Strine, and David Marteny (collectively "Coworkers"). ***Id.*** at ¶ 7. Danny Tesch was Decedent's supervisor and conducted annual personal performance reviews and any disciplinary procedures concerning Decedent. ***Id.*** at ¶ 8. On October 5, 2023, Decedent died by suicide in a parking lot at York Township Park. ***Id.*** at ¶ 9. Prior to Decedent's suicide, Decedent left a written note that states in its entirety:

To
Danny Tesch
Jeffrey Strine
John Chronister
David Marteny

I hope no one else has to endure the pain that you guys put me through Having to deal with you guys being races or picking on me or bullying me and treating me like shit Just because of my skin color I do not wish this kind of pain on anyone.

To my family

I love each and everyone of you mom and dad you guys are the best Parents any child could ask for I love you both from the bottom of heart

Id. at ¶ 10 (*verbatim*; Administratrix’s editorial usage of *sic* omitted). On May 11, 2023, Decedent also engaged in a text message exchange with his brother as follows:

[Decedent’s brother]: Not even going into work. You still at the York WellSpan

[Decedent]: Yes I am but I think I’m gonna find another job

[Decedent’s brother]: Why’s that and where at

[Decedent]: Working with these idiots and they being races and shit I might just find another company

[Decedent’s brother]: Yes I heard York was bad. You should’ve just transferred to Lebanon

[Decedent’s brother]: That’s why I never applied to the york one

[Decedent]: That’s why I wanted to talk to you about Lebanon too I didn’t know you applied

Id. at ¶ 11 (*verbatim*; Administratrix’s editorial usage of *sic* omitted; formatting modified). Coworkers are of the Caucasian race, and Decedent is of the Asian race, his heritage being of Southeast Asia. **Id.** at ¶ 12.

According to Administratrix, Coworkers — during the course of their employment with Appellees — engaged in a course of conduct of racist bullying against Decedent due to the color of Decedent’s skin. **Id.** at ¶¶ 14-15. Administratrix advanced such conduct was intentional, was extreme and

outrageous in nature, being intolerable conduct in a civilized society, and caused Decedent to suffer prolonged and severe emotional distress. **Id.** at ¶¶ 13-15. Administratrix also averred the course of conduct engaged in by Coworkers constituted extreme and outrageous facts that will support a cause of action grounded in intentional infliction of emotional distress (“IIED”). **Id.** at ¶ 16.

With respect to Administratrix’s vicarious liability claim against Appellees, Administratrix stated Coworkers’ actions against Decedent were motivated by an outrageous, extreme, and discriminatory intent to cause injury to Decedent in the form of severe emotional distress, and were committed against Decedent during the course of and within the scope of employment. **Id.** at ¶¶ 18-19. While Appellees had the ability to control the actions of Coworkers, Administratrix said Appellees instead operated in a manner in which no employee other than Danny Tesch had hands-on supervisory control of the biomedical equipment technician unit. **Id.** at ¶ 20. As a direct and proximate result of the failure of Appellees to control the employment situation, and acts and conduct of Coworkers during the course of employment, Administratrix claimed Decedent suffered significant emotional distress which resulted in his death. **Id.** at ¶ 21. In addition, as a direct and proximate result of the lack of control and vicarious liability of Appellees, Administratrix sought survival damages. **Id.** at ¶ 24.

On June 19, 2025, Appellees filed preliminary objections. First, they sought a demurrer to all counts pursuant to Pa.R.Civ.P. 1028(a)(4), arguing

the complaint fails to state a cause of action for IIED, upon which the Administratrix's vicarious liability and survival action claims are based. Preliminary Objections, 6/19/25, at ¶¶ 17-33; **see also** Pa.R.Civ.P. 1028(a)(4) (stating preliminary objections may be filed due to the legal insufficiency of a pleading). Second, Appellees sought a demurrer to all counts pursuant to Pa.R.Civ.P. 1028(a)(1), asserting the Workers' Compensation Act ("WCA")² bars Administratrix's claims. **Id.** at ¶¶ 34-48; **see also** Pa.R.Civ.P. 1028(a)(1) (providing preliminary objections may be filed because of lack of jurisdiction over the subject matter of the action or the person of the defendant, improper venue or improper form or service of a writ of summons or a complaint). Third and finally, Appellees moved to strike certain paragraphs from the complaint pursuant to Pa.R.Civ.P. 1028(a)(2). **Id.** at ¶¶ 49-61; **see also** Pa.R.Civ.P. 1028(a)(2) (setting forth preliminary objections may be filed based on the failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter). Specifically, Appellees sought to strike allegations of their purported 'failure to control' Coworkers and the situation, pointing out the complaint does not allege a count of direct liability against Appellees, but instead is based upon Appellees' vicarious liability for the alleged actions of their employees. **Id.** at ¶¶ 52-60.

Administratrix filed a brief in opposition on July 9, 2025. First, Administratrix insisted the conduct alleged in the complaint meets the criteria

² WCA, Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §§ 1 *et seq.*

for IIED. Brief in Opposition, 7/9/25, at 8-9. Second, Administratrix claimed the personal animus exception to the WCA applies, arguing the course of conduct of ethnic bullying is personal, and not remotely related to the maintenance and repair of biomedical equipment. ***Id.*** at 10. Finally, Administratrix said the allegations about Appellees' 'failure to control' Coworkers sets forth an accurate description of the dynamics involved, and maintained a plaintiff has the right to describe the facts that comprise the cause of action. ***Id.*** at 11.

After Appellees filed a reply brief, oral argument on the preliminary objections occurred on October 22, 2025. At the conclusion of the oral argument, the trial court sustained Appellees' preliminary objections, stating:

[W]e are satisfied that the preliminary objections alleging that the complaint is legally insufficient convinces this [c]ourt that the request for demurrer to both counts should be sustained and we hereby sustain those preliminary objections.

We conclude[,] based upon all the information we have available to us[,] that [Administratrix's] attempt to hold [Appellees] vicariously liable for alleged and somewhat murky actions or conduct of some of their employees, even if proven, would not permit a recovery for [IIED].

N.T., 10/22/25, at 27-28. The order was docketed on October 28, 2025.

Administratrix filed a timely notice of appeal. The trial court directed Administratrix to file a Pa.R.A.P. 1925(b) concise statement, and Administratrix timely complied. The trial court thereafter issued a Rule 1925(a) opinion, in which it elaborated on its reasoning for sustaining

Appellees' preliminary objections and discussed the lack of specificity in the complaint. **See** Trial Court Opinion ("TCO"), 2/25/26, at 2-5.

Issues

On appeal, Administratrix raises the following issues for our review:

I. Did the [c]ourt err in dismissing [Administratrix's] action for lack of specificity, as the content of the Decedent's suicide note and the text message exchange between Decedent and his brother directly implicate [C]o[]workers in having engaged in racist conduct against Decedent?

II. Did the [c]ourt err and abuse its discretion in dismissing [Administratrix's] action in that [Administratrix] was never afforded the opportunity to conduct full discovery, having only been able to conduct pre-complaint discovery with [Appellees]?

III. Did the [c]ourt err and abuse its discretion in dismissing [Administratrix's] action[,] determining that the actions of [C]o[]workers were not foreseeable to the extent that [Appellees] can be found to be vicariously liable, as the full facts of this case have not been established through full discovery?

IV. Did the [c]ourt err in finding that the [WCA] is the sole legal remedy of [Administratrix]?

Administratrix's Brief at 5-6.³

First Issue

Lack of Specificity

In the first issue, Administratrix argues the trial court erred in dismissing the action for lack of specificity, as the content of Decedent's suicide note and the text message exchange between Decedent and his brother directly implicate Coworkers in having engaged in racist conduct against Decedent. ***Id.*** at 16. Administratrix says this racist conduct meets the criteria for IIED.

³ We have re-ordered Administratrix's issues for ease of disposition.

Id. at 18-19. To support this argument, Administratrix cites **Rowe v. Marder**, 750 F.Supp. 718 (W.D. Pa. 1990). **Id.** at 19-20.

Initially, we recognize:

A preliminary objection in the nature of a demurrer is properly granted where the contested pleading is legally insufficient. Preliminary objections in the nature of a demurrer require the court to resolve the issues solely on the basis of the pleadings; no testimony or other evidence outside of the complaint may be considered to dispose of the legal issues presented by the demurrer. All material facts set forth in the pleading and all inferences reasonably deducible therefrom must be admitted as true.

In determining whether the trial court properly sustained preliminary objections, the appellate court must examine the averments in the complaint, together with the documents and exhibits attached thereto, in order to evaluate the sufficiency of the facts averred. The impetus of our inquiry is to determine the legal sufficiency of the complaint and whether the pleading would permit recovery if ultimately proven. This Court will reverse the trial court's decision regarding preliminary objections only where there has been an error of law or abuse of discretion. When sustaining the trial court's ruling will result in the denial of claim or a dismissal of suit, preliminary objections will be sustained only where the case is free and clear of doubt.

Thus, the question presented by the demurrer is whether, on the facts averred, the law says with certainty that no recovery is possible. Where a doubt exists as to whether a demurrer should be sustained, this doubt should be resolved in favor of overruling it.

d'Happart v. First Commonwealth Bank, 282 A.3d 704, 712 (Pa. Super. 2022) (citation omitted); **see also Mercer v. Newell**, 254 A.3d 755, 758 (Pa. Super. 2021) ("A demurrer by a defendant admits all relevant facts sufficiently pleaded in the complaint and all inferences fairly deducible therefrom, but not conclusions of law or unjustified inferences. ... When analyzing a demurrer,

the court need not consider the pleader's conclusions of law, unwarranted inferences from facts, opinions, or argumentative allegations.") (citation omitted).

We further acknowledge that, in order for a plaintiff to prevail on a claim for IIED,

he or she must, at the least, demonstrate intentional outrageous or extreme conduct by the defendant, which causes severe emotional distress to the plaintiff. In addition, a plaintiff must suffer some type of resulting physical harm due to the defendant's outrageous conduct.

Outrageous or extreme conduct has been defined by the appellate courts of this Commonwealth as conduct that is so outrageous in character, so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in civilized society. It has not been enough that the defendant has acted with intent which is tortious or even criminal, or that he has intended to inflict emotional distress, or even that his conduct has been characterized by malice, or a degree of aggravation that would entitle the plaintiff to punitive damages for another tort.

Swisher v. Pitz, 868 A.2d 1228, 1230-31 (Pa. Super. 2005) (cleaned up).

We have compiled examples of cases in which outrageous conduct for purposes of IIED has been established:

Cases which have found a sufficient basis for a cause of action of [IIED] have had presented only the most egregious conduct. **See[,] e.g., Papieves v. Lawrence**, ... 263 A.2d 118 ([Pa.] 1970) ([the] defendant, after striking and killing [the] plaintiff's son with automobile, and after failing to notify authorities or seek medical assistance, buried body in a field where [it was] discovered two months later and returned to parents ...); **Banyas v. Lower Bucks Hosp[.]**, 437 A.2d 1236 ([Pa. Super.] 1981) ([the] defendants intentionally fabricated records to suggest that [the] plaintiff had killed a third party[,], which led to [the] plaintiff being indicted for homicide); **Chuy v. Philadelphia Eagles Football Club**, 595 F.2d 1265 (3d Cir.1979) ([the] defendant's

team physician released to [the] press information that [the] plaintiff was suffering from [a] fatal disease, when [the] physician knew such information was false).

Id. at 1231 (citation omitted). “With regard to the element of outrageousness, it is for the court to determine in the first instance whether the defendant’s conduct may reasonably be regarded as so extreme and outrageous to permit recovery.” **Id.** (citation omitted).

In the case *sub judice*, the trial court opined, in relevant part:

In the instant case, paragraph ten ... of the [c]omplaint claims that the Decedent left a form of suicide note (a copy of which is not attached thereto). In the alleged note, and according to [Administratrix], the [D]ecedent includes a letter to [Coworkers,] the alleged employees of [Appellees], alleging that those individuals are racist, that they picked on the [D]ecedent or bullied him[,] and “treated him like shit because of the color of his skin.”

Paragraph eleven ... of the [c]omplaint alleges that on May 11, 2023, the [D]ecedent engaged in texting with his brother (who is unnamed in the [c]omplaint) wherein the [D]ecedent indicated he might look for another job because of “working with these idiots and they being races [*sic*] and shit[.]” However, the reference to “these idiots” or “they” may or may not be referring to [Coworkers].

Moreover, neither the alleged suicide note nor the alleged text messages indicate:

- Why the [D]ecedent believed those four individuals were racist;
- What those four individuals may have specifically did or said to the [D]ecedent;
- Who said and/or did what to the [D]ecedent that could be considered racist or bullying;
- When any of those individuals might have said something or did something to [D]ecedent; or
- Where any of those individuals were when they allegedly did or said anything to the [D]ecedent.

Also, there is nothing in the [c]omplaint that indicates that the [D]ecedent complained to [Appellees] about this alleged behavior by these individuals, or that [Appellees] had any reason to know about any racist or bullying behavior by any employees in regard to the [D]ecedent.

[Administratrix's] claims that [Appellees'] employees engaged in a "course of conduct of racist bullying against [D]ecedent due to the color of the [D]ecedent's skin" and "engaged in racist bullying" against the [D]ecedent are conclusions that are not considered to be admitted as true by a demurrer. As a result, the [c]omplaint is devoid of any specific, non-conclusory[] averments as to the conduct complained of. Given the foregoing, the [t]rial [c]ourt did not err in dismissing [Administratrix's] complaint for lack of specificity.

TCO at 3-5 (internal citations and emphasis omitted).

Upon our review of the complaint, we concur with the trial court that the allegations are too vague and conclusory to support a claim for IIED. Without more specific allegations as to the conduct of Coworkers, we are unable to assess whether Coworkers' conduct can reasonably be regarded as so extreme and outrageous to permit recovery. **Accord Swisher**, 868 A.2d at 1231 (determining, as a matter of law, the plaintiff did not state a cause of action for IIED where the alleged actions were not outrageous for purposes of IIED).

Administratrix's cite to **Rowe, supra**, does not change our conclusion.⁴ In that case, the decedent jumped from the fifth floor of a building and subsequently died. **Rowe**, 750 F.Supp. at 722. The administrator of the decedent's estate brought a survival action based on IIED against the

⁴ Federal district court decisions are not binding on this Court but may provide guidance. **See Brader v. Allegheny Health Network**, 349 A.3d 210, 221 n.13 (Pa. Super. 2025) (recognizing this Court is not bound by decisions of federal courts inferior to the United States Supreme Court, but may look to them for guidance) (citation omitted).

decedent's sister, as well as a wrongful death action. ***Id.*** The administrator alleged that decedent's sister knew the decedent was emotionally unstable and, over many years, manipulated the decedent to rely on her support and advice to the exclusion of all others. ***Id.*** For instance, the sister directed the decedent to a birth control clinic over her husband's objections; told the decedent to remove her severely mentally challenged daughter from a specialized institution and instead care for her at home; used her dominance over decedent in order to seize control over their mother's estate; and successfully influenced the decedent to divorce her husband and then advised the decedent in the divorce proceedings, making the proceedings unnecessarily protracted and ruining the decedent financially in the process. ***Id.*** The decedent's sister then, suddenly, withdrew all support leaving the decedent broken, despondent, and suicidal. ***Id.*** The sister repudiated her promise to help the decedent care for her daughter and, contrary to earlier representations, told the decedent she would only receive a small portion of their mother's estate. ***Id.*** at 723. The sister also told the decedent not to seek professional help, despite the decedent's talk of suicide, and advised the decedent to stop taking her prescribed medications. ***Id.***

The decedent's sister filed a motion to dismiss the complaint for failure to state a claim upon which relief can be granted. ***See id.*** at 719, 722. The administrator claimed the sister's actions amounted to IIED which ultimately led the decedent to commit suicide. ***Id.*** at 723. The district court disagreed that IIED was established, stating: "In our society, where people can generally

speak to one another as they wish to, merely harboring bad intentions should not make us expect civil liability. [The sister's] bad counsel then, even if malicious, was simply not the kind of conduct she would have known exposed her to liability for" IIED. ***Id.*** at 727.

We fail to see how ***Rowe*** supports Administratrix's argument that IIED was sufficiently alleged in this case. Although the ***Rowe*** Court ruled the course of conduct averred was not extreme or outrageous enough to meet the requirements of a claim of IIED, Administratrix insists "a course of conduct of racist bullying against a co[]worker meets the definition of extreme and outrageous according to the mores of society today." Administratrix's Brief at 20. However, as stated above, we cannot determine whether Coworkers' alleged conduct was sufficiently extreme and outrageous for purposes of establishing IIED given the lack of specificity in the complaint.⁵ Accordingly, no relief is due on Administratrix's first issue.

Second & Third Issues

Further Discovery

We address Administratrix's second and third issues together, in which Administratrix argues the trial court erred in dismissing the action without

⁵ As discussed further *infra*, Administratrix also provides no case law to support her claim that a course of conduct of racist bullying against a coworker meets the definition of extreme and outrageous conduct.

allowing for “full” discovery. **See id.** at 15, 23.⁶ In considering this claim below, the trial court explained:

[Administratrix] contends ... the [t]rial [c]ourt “erred in dismissing [the] action in that [Administratrix] was never afforded the opportunity to conduct full discovery, having only been able to conduct pre-complaint discovery with [Appellees].” This contention is without merit. The [c]ourt is not aware of, and [Administratrix] has not cited to, any legal authority that stands for the proposition that a case cannot be dismissed on preliminary objections if they have not engaged in “full” discovery. The pre-trial discovery in this case consisted of:

- A request for the production of documents;
- Interrogatories requesting information about:
 - The [D]ecedent’s work history;
 - Whether there were any prior incidents or allegations by other employees of race-based harassment by any of those four employees named in the complaint.

(N.T.[at] 7-8). Moreover, pre-complaint discovery is not limited, and includes the possibility of depositions. (Pa.R.Civ.P. 4001(c), 4003.8). In addition, during oral argument, [Administratrix’s] [c]ounsel agreed that [Administratrix] has engaged in the kind of discovery that was thought to be necessary. (N.T.[at] 20). Given the foregoing, the [t]rial [c]ourt did not err in sustaining the preliminary objections and dismissing the [c]omplaint.

TCO at 2.

⁶ In the trial court’s Rule 1925(a) opinion, it relies on the same reasoning in addressing Administratrix’s second and third issues. **See** TCO at 2, 5. Because the trial court employed the same reasoning to dispose of both issues, Administratrix says she advances and incorporates the same argument for both issues on appeal. **See** Administratrix’s Brief at 23. However, in doing so, it appears Administratrix misidentifies the issues in which the trial court applied the same rationale. **See id.**

On appeal, Administratrix's entire argument on the second and third issues is as follows:

The trial court erred and abused its discretion in dismissing [Administratrix's] action without the full opportunity to conduct full discovery. The trial court in its Rule 1925(a) [o]pinion cites one out of context remark in support of its resolution of this case.

But elsewhere in the transcript of the October 22, 2025 oral argument, specifically at pages 23 to 25, there is argument concerning an investigation dome [sic] by the attorneys for Appellee [sic] of this incident. Appellee [sic] was not provided a copy of that report, with Appellee maintain [sic] that the document was work product. There were outstanding discovery issues.

[Administratrix] respectfully requests that this Honorable Court review the proceedings in this case and reverse the [o]rder of the [t]rial [c]ourt.

Administratrix's Brief at 15.

No relief is due. Initially, although Administratrix filed a motion to compel responses to pre-complaint discovery at the beginning of this action and the trial court held the motion in abeyance for three weeks to allow the parties to continue to discuss a resolution to the motion, Administratrix subsequently filed a complaint without raising any more pre-complaint discovery issues. Our review of Administratrix's brief in opposition to Appellees' preliminary objections also does not show Administratrix complained that more pre-complaint discovery was needed. At the oral argument on preliminary objections, the following transpired, in pertinent part:

THE COURT: ... [S]hould [Administratrix] be given the opportunity to engage in discovery to see if there is any evidence out there that would support the allegations?

[APPELLEES' COUNSEL]: First of all, I would say, Your Honor, that [Administratrix] has already engaged in that discovery. There was pre-complaint discovery in this case.

So what you're seeing in the complaint is the best that they could come up with[,] with the benefit of that pre-complaint discovery.

THE COURT: Let me stop you. Maybe I missed something. I was not aware that there was pre-complaint discovery. What was the nature of that?

[APPELLEES' COUNSEL]: There were request[s] for production of documents that were issued, there were interrogatories that were issued requesting information about [Decedent's] work history, whether there was any kind of prior incidents or allegations by other employees of race-based harassment by any of those four employees, things of that nature.

THE COURT: Let me stop you. Is that correct, [Administratrix's] counsel?

[ADMINISTRATRIX'S COUNSEL]: There was pre-complaint discovery. It was in the form of interrogatories and request[s] for production from [Appellees]. We've not had the opportunity to depose the four individuals but --

THE COURT: We understand that.

[APPELLEES' COUNSEL]: Your Honor, so what I would say is that at this point it would be futile to allow there to be additional discovery or even another opportunity to amend the complaint. I mean whatever allegations [Administratrix] could come up with, they are before you right now. This is the best that they can come up with. And it's just going to be expensive and worthless to go any further.

THE COURT: What about the vicarious liability and knowledge or should have known standard? I mean ... why should [Appellees] be liable for something that, not only did they not do themselves, but had no knowledge that it was being done?

[ADMINISTRATRIX'S COUNSEL]: And that's where we are going to ask you for an additional opportunity to do discovery in this

matter, get documents and interrogatory answers from [Appellees].

THE COURT: I thought those were already given.

[ADMINISTRATRIX'S COUNSEL]: We got some things, yes. I think --

THE COURT: Look, I'm just trying to figure this out here.

[APPELLEES' COUNSEL]: Understood.

THE COURT: ... The problem is we are a fact-pleading complaint [*sic*]. And, you know, [Appellees,] I think[,] rightly can point out, hey, you know, tell us what your real problem is here. [T]ell us what evidence you think you're going to be able to produce to prove your case. I mean that's to me one of the main issues here.

Well, [Appellees' counsel], why shouldn't the [c]ourt give [Administratrix] one more bite at the apple and see if they can file an amended complaint that's more specific?

[APPELLEES' COUNSEL]: Yeah, I actually had that as the issue I wanted to address. The only issue left for you to decide, Your Honor, I think based on what [Administratrix's counsel] has told you and what your questions are, the conclusions you stated[,] is whether [Administratrix] should be granted leave to amend the complaint.

It would be futile here. [Administratrix] has ... filed a writ, they took the pre-complaint discovery, then they put together the complaint. They've been told that these allegations are insufficient. They provided briefing.

[Administratrix's counsel] is a very good attorney. He has had interactions I'm sure with [A]dministratrix.... If there is a good faith basis for the estate to make the required allegations, I think[,] in consideration of judicial economy and judicial resources[, Administratrix's counsel] should state right now what those allegations are that he has a good faith basis to make. If he can't provide ... allegations in good faith that would establish the required elements, things that are missing from this complaint right here before you now, it would be an exercise in futility to have him do that for us to file preliminary objections, for everybody to brief this and end up back here six months later and,

you know, God knows how much more money all the parties [will] have expended on this.

THE COURT: Let me ask you a question. Has your client complied with all the discovery requests made by [Administratrix]?

[APPELLEES' COUNSEL]: Oh, yes. There has been no allegation that our discovery was insufficient. I shouldn't say that. Our initial responses were deemed insufficient and we were ordered to supplement them. We supplemented them. Since we supplemented them, there have been no allegations that I received, [and Administratrix's counsel] can correct me if I'm wrong, that indicate that our responses were insufficient.

THE COURT: What do you have to say to that, [Administratrix's counsel]?

[ADMINISTRATRIX'S COUNSEL]: I recall that [Appellees] did object to a few of our interrogatories, but we were provided what looked like the full employment records for the four employees, the alleged perpetrators here.

THE COURT: Is giving you another bite at the apple, is that going to change anything?

[ADMINISTRATRIX'S COUNSEL]: I believe my client deserves the opportunity to flush out what was alleged in that suicide note.

THE COURT: Didn't they already have that opportunity?

[ADMINISTRATRIX'S COUNSEL]: Well, we got the four victims to depose and go after as well.

THE COURT: I'm sorry?

[ADMINISTRATRIX'S COUNSEL]: I said the victims. I misspoke. We have the four individuals to proceed [*sic*], get more information out of them.

THE COURT: But you had the opportunity to do that and you didn't do it. I mean that's why I asked the question about discovery. I mean, I'm told that whatever you wanted to discover, whatever discovery you wanted to engage in, [Appellees] cooperated and responded substantively. So I mean it sounds like you engaged in the kind of discovery you thought was necessary. Do you agree with that?

[ADMINISTRATRIX'S COUNSEL]: Yes.

THE COURT: Let's talk about this. Let us assume hypothetically that in discovery or somehow one of the [C]o[]workers acknowledge that there were some words exchanged between the [D]ecedent and one or more of the employees ... and ... there may have been some references to [Decedent's] race.

Do you, [Appellees' counsel], believe ... if that was alleged or pleaded that would overcome your preliminary objections?

[APPELLEES' COUNSEL]: No, it would not. And that's because race-based employment discrimination is insufficient as a matter of law to establish a claim for [IIED]. We cite a plethora of cases that hold that, and the estate cites nothing to the contrary.

But, Your Honor, one of the things I do want to --

THE COURT: Before you do, I've read the cases. And I had read them before, frankly. This is ... a unique issue for me at least. So I did take the time to read the cases that both of you have cited.

What do you say about that? I mean [Appellees' counsel] is saying, hey, it's pretty clear in Pennsylvania [IIED] is not going to cover claims of racial discrimination. What do you have to say about that? Do you agree with that on the cases?

[ADMINISTRATRIX'S COUNSEL]: I do not agree with that. The case that we cited in our briefs --

THE COURT: The **Rowe** case.

[ADMINISTRATRIX'S COUNSEL]: Yes.

THE COURT: I read that, too. I read all the cases. ... It just didn't seem on point to me. I mean it wasn't an employment case. It was a sad case. But it had to do with a caregiver manipulating someone in her care and, ... presumably, ... causing her to commit suicide. That really is pretty in opposite [*sic*] to this case, don't you think?

[APPELLEES' COUNSEL]: No, I would respectfully disagree with that. It involved the course of conduct of bullying and intimidation. And the ... main part of the case, what we take from it is that if you're pleading [an] intentional tort and you succeed in doing that, then [an IIED] claim will support a finding of liability if it's [an] intentional matter as opposed to negligent.

Again, we're not really much into the discrimination theory of our case. We're into the intentional tort theory.

[APPELLEES' COUNSEL]: Your Honor, may I speak to this. The **Rowe** [Co]urt actually held that the allegations ... made were insufficiently severe to establish an actionable claim of [IIED] under common law. So I can't see -- even though they have nothing to do with employment, even though the [c]ourt held that they were insufficient to establish [IIED], that they somehow demonstrate that in this case the employees who are alleged to have been acting within the course and scope of their employment committed [IIED] that is actionable under Pennsylvania common law.

I also wanted to mention, Your Honor, something going back to what you were talking about before, about, you know, what if there is somebody [that] make[s] an admission that there was some sort of racial tension in the workplace or whatever. Again, case law says that's insufficient as a matter of law and we stick by that.

But that isn't what happened here. When [Appellees] learned of [Decedent's] death and the suicide note, [they] launched an immediate investigation of this. And they asked all of the employees who had ... regular contact with [Decedent], hey, what's going on here, did you observe anything like that. And everyone came back and said, no, we don't know what he was talking about, we don't know why he would say that. The four employees were just gobsmacked by the allegation and rather disturbed by it.

If the estate had other evidence or allegations out there that suggested that there was some kind of fault for these employees, we ... probably wouldn't even be here before you today, Your Honor. There just simply is nothing there.

[ADMINISTRATRIX'S COUNSEL]: Your Honor, we were not provided with a copy of that report, that investigation despite asking for it.

THE COURT: So you're hearing about this for the first time, is that what you are telling me?

[ADMINISTRATRIX'S COUNSEL]: Oh, no. [I]t was requested and they said, no, it's work product, you can't have it.

THE COURT: What I'm asking you, is this the first time you heard about the efforts that [Appellees] made to investigate the situation[?]

[ADMINISTRATRIX'S COUNSEL]: We heard about the efforts, not about results, the content.

THE COURT: You now heard about the results, is that what you are telling me, for the first time?

[ADMINISTRATRIX'S COUNSEL]: Yes.

THE COURT: You know, [Appellees' counsel], you've been very persuasive and I am impressed by the line of cases that you've cited, and I only hesitate because in order for me to throw out a complaint, it's got to be free and clear from doubt.

I'm inclined to suggest this, why don't you allow [Administratrix], if they choose to do so, to depose these individuals or to present interrogatories specifically to them, and then we'll come back and based upon whatever information we have, maybe that will make things clearer. I would rather not grant the PO's with the right to plead over because that is a lot of extra work. But it seems to me that might be a way that this can be resolved.

[APPELLEES' COUNSEL]: Your Honor, I would respectfully disagree with you. You know, it's pretty clear under Pennsylvania case law that allegations of colorable claim [*sic*] are the key that unlocks the door to the type of discovery you're talking about here, and the estate simply hasn't provided those types of allegations. They have to provide the type of allegations. We should not be required to put employees up for depositions without me knowing what they are actually being accused of, which is completely absent.

THE COURT: I guess I'll pretend I'm [Administratrix's counsel] here for a moment. But what about the suicide note? I mean that's pretty specific.

[APPELLEES' COUNSEL]: The suicide note is not specific. It doesn't say what these employees are alleged to have actually done. It says they treated him poorly because of his race. It doesn't say what they did, when they did it, how they did it, why

he felt that it was based on his race as opposed to some other reason.

... Your Honor should be aware that the estate has sued the individual [C]o[]workers in this case separately.

THE COURT: I didn't know that.

[APPELLEES' COUNSEL]: ... I'm not representing the other employees in that. They have separate counsel. And I understand though that there was pre-complaint discovery in that case as well.

THE COURT: I wasn't aware of that. I mean that makes sense. But I wasn't aware of that. Okay.

Anything else on this, [Administratrix's counsel]?

[ADMINISTRATRIX'S COUNSEL]: No, Your Honor. I think the cases that [Appellees] alleged in their reply brief are distinguishable and oftentimes old. I think the [c]ourt understands the issues here and I appreciate it.

N.T. at 7-8, 11-12, 17-24, 25-27.

Administratrix's meager argument on appeal does not convince us the trial court erred in not allowing further discovery to take place. Administratrix does not refute the trial court's assertion that pre-complaint discovery includes the possibility of depositions, nor does Administratrix explain why she did not seek to depose Coworkers during the pre-complaint discovery phase. Further, while Administratrix mentions not being provided Appellees' investigative report because Appellees claimed it is work product, Administratrix develops no argument as to why Appellees should have turned over a copy of the report. Moreover, other than citing **Rowe** (which is not an employment discrimination case), Administratrix sets forth no argument or authority to rebut Appellees' claim that — even if one of the Coworkers admitted there was some sort of

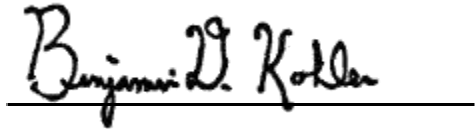
racial tension in the workplace — race-based employment discrimination is insufficient as a matter of law to establish IIED. Finally, Administratrix does not adequately explain why the trial court should have permitted “full” discovery where insufficient facts have been alleged in the complaint to support the claims brought.

“It [is] not for this Court to develop an appellant’s arguments.” ***Commonwealth v. Rush***, 959 A.2d 945, 950 (Pa. Super. 2008) (citation omitted). “Rather, it is the appellant’s obligation to present developed arguments and, in so doing, apply the relevant law to the facts of the case, persuade us there were errors, and convince us relief is due because of those errors.” ***Id.*** at 950-51 (citations omitted). “If an appellant fails to do so, we may find the argument waived.” ***Id.*** at 51 (citation omitted). As Administratrix has not adequately developed arguments for her second and third issues to facilitate meaningful appellate review, we deem them waived. Thus, we affirm the trial court’s order granting Appellees’ preliminary objections based on the complaint’s legal insufficiency.⁷

Order affirmed.

⁷ In the fourth issue, Administratrix contends the trial court erred in finding the WCA is the sole legal remedy for the claims asserted. Administratrix’s Brief at 21-22. The trial court, however, asserted it did not make any such finding. TCO at 5; ***see also*** Order, 10/28/25 (sustaining preliminary objections because the complaint is legally insufficient); N.T. at 14-17 (trial court’s indicating the factual allegations in the complaint are not clear and, consequently, it is also unclear whether the WCA applies). Due to our disposition affirming the trial court’s determination the complaint is legally insufficient, we need not address the fourth issue further.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 09/25/2026