

**IN THE COURT OF COMMON PLEAS OF
LYCOMING COUNTY, PENNSYLVANIA**

JOHN DOE	:	
	:	
Plaintiff,	:	CIVIL ACTION - LAW
	:	
v.	:	
	:	No. CV-2026-00283
	:	
WILLIAMSPORT AREA SCHOOL	:	
DISTRICT and ROGER FREED	:	
And MICHELLE PULIZZI and	:	Preliminary Objections to
SEAN WALKER and	:	Amended Complaint
JOHN DOES 1-10	:	
	:	
Defendants	:	

**OPINION ON PRELIMINARY OBJECTIONS OF ROGER FREED,
MICHELLE PULIZZI, AND SEAN WALKER FILED AUGUST 17, 2026**

BACKGROUND:

This matter initially came before the Court on Defendants’ Preliminary Objections to Plaintiff’s original Complaint. The Court entered its Opinion and Order filed July 7, 2026. On July 27, 2026, Plaintiff filed an Amended Complaint. On August 17, 2026, Defendants Roger Freed, Michelle Pulizzi, and Sean Walker (hereinafter sometimes referred to collectively as the “Moving Defendants”) filed Preliminary Objections to the Amended Complaint, which came before the Court for argument on October 5, 2026.

QUESTIONS PRESENTED:

1. WHETHER A DEMURRER SHOULD BE ENTERED TO PLAINTIFF’S CLAIMS AGAINST SEAN WALKER.
2. WHETHER A DEMURRER SHOULD BE ENTERED TO COUNT II OF THE AMENDED COMPLAINT.
3. WHETHER A DEMURRER SHOULD BE ENTERED TO COUNT V OF THE AMENDED COMPLAINT.

ANSWERS TO QUESTIONS PRESENTED:

1. AT THIS EARLY STAGE OF THE LITIGATION, A DEMURRER WILL NOT YET BE ENTERED TO PLAINTIFF’S CLAIMS AGAINST SEAN WALKER.
2. A DEMURRER WILL NOT YET BE ENTERED TO COUNT II OF THE AMENDED COMPLAINT, BUT REFERENCES TO THE CHILD PROTECTIVE SERVICES LAW AND EDUCATOR DISCIPLINE ACT WILL BE STRICKEN.

3. A DEMURRER WILL NOT YET BE ENTERED TO COUNT IV OF THE AMENDED COMPLAINT, BUT REFERENCES TO ALLEGED INTENTIONAL CONDUCT OF DEFENDANT ROGER FREED WILL BE STRICKEN.

DISCUSSION:

1. A DEMURRER WILL NOT YET BE ENTERED TO PLAINTIFF'S CLAIMS AGAINST SEAN WALKER.

The Test Applicable to a Demurrer:

A demurrer can only be sustained where the complaint is clearly insufficient to establish the pleader's right to relief. *Firing v. Kephart*, 466 Pa. 560, 353 A.2d 833 (1976). For the purpose of testing the legal sufficiency of the challenged pleading a preliminary objection in the nature of a demurrer admits as true all well-pleaded, material, relevant facts, *Savitz v. Weinstein*, 395 Pa. 173, 149 A.2d 110 (1959); *March v. Banus*, 395 Pa. 629, 151 A.2d 612 (1959), and every inference fairly deducible from those facts. *Chappell v. Powell*, 303 A.3d 507, 511 (Pa.Super. 2023); *Hoffman v. Misericordia Hospital of Philadelphia*, 439 Pa. 501, 267 A.2d 867 (1970); *Troop v. Franklin Savings Trust*, 291 Pa. 18, 139 A. 492 (1927). The pleader's conclusions or averments of law are not considered to be admitted as true by a demurrer. *Savitz v. Weinstein, supra*.

Since the sustaining of a demurrer results in a denial of the pleader's claim or a dismissal of his suit, a preliminary objection in the nature of a demurrer should be sustained only in cases that clearly and without a doubt fail to state a claim for which relief may be granted. *Schott v. Westinghouse Electric Corp.*, 436 Pa. 279, 259 A.2d 443 (1969); *Botwinick v. Credit Exchange, Inc.*, 419 Pa. 65, 213 A.2d 349 (1965); *Savitz v. Weinstein, supra*; **829 *London v. Kingsley*, 368 Pa. 109, 81 A.2d 870 (1951); *Waldman v. Shoemaker*, 367 Pa. 587, 80 A.2d 776 (1951). If the facts as pleaded state a claim for which relief may be granted under any theory of law then there is sufficient doubt to require the preliminary objection in the nature of a demurrer to be rejected. *Packler v. State Employment Retirement Board*, 470 Pa. 368, 371, 368 A.2d 673, 675 (1977); *see also, Schott v. Westinghouse Electric Corp., supra*, 436 Pa. at 291, 259 A.2d at 449.

Mudd v. Hoffman Homes for Youth, Inc., 374 Pa.Super. 522, 524–25, 543 A.2d 1092, 1093–94 (1988) (quoting *County of Allegheny v. Commonwealth*, 507 Pa. 360, 372, 490 A.2d 402, 408 (1985)). *Accord, Ritz v. Ramsay*, 305 A.3d 1056, 1061 (Pa.Super. 2023).

The allegations against Defendant Sean Walker are set forth at Paragraphs 138 through 142 of the Amended Complaint. A fair reading of the allegations at Paragraph 138 leads to the conclusion that Walter was trying to prevent the conduct which is the basis for Plaintiff's

claims. Beyond that conduct alleged at Paragraph 138, the Amended Complaint contains much “heat” directed at Defendant Walker, but very little “light.”

The Court will not dismiss the claim at this early stage of the litigation, in order to permit Plaintiff an opportunity to conduct discovery. Unless discovery reveals facts which support a finding that the acts or omissions of Defendant Walker were the legal cause of Plaintiff’s alleged damages, a dispositive motion by Defendant Walker is likely to prevail.

2. A DEMURRER WILL NOT YET BE ENTERED TO COUNT II OF THE AMENDED COMPLAINT, BUT REFERENCES TO THE CHILD PROTECTIVE SERVICES LAW AND EDUCATOR DISCIPLINE ACT WILL BE STRICKEN.

At Paragraph 43 of the Preliminary Objections, the Moving Defendants contend that Count II of the Amended Complaint should be dismissed. Count II asserts a claim of negligence against Defendant Roger Freed, and is based upon Plaintiff’s contention that Freed owed Plaintiff a duty of care related to alleged conduct by co-Defendant Michelle Pulizzi. Whether Freed owed such a duty or breached such a duty cannot be resolved on preliminary objection. The Court notes that Count II includes assertions that the common law duty is created by either the Pennsylvania Child Protective Services Law or the Educator Discipline Act. The Court is unaware of any authority for the proposition that either of those statutes were intended to create a civil cause of action. For that reason, reference to those statutes will be stricken, without prejudice to the Plaintiff to seek an instruction at trial, if deemed appropriate by the Court.

3. A DEMURRER WILL NOT YET BE ENTERED TO COUNT IV OF THE AMENDED COMPLAINT, BUT REFERENCES TO ALLEGED INTENTIONAL CONDUCT OF DEFENDANT ROGER FREED WILL BE STRICKEN.

At Paragraph 44 of the Preliminary Objections, the Moving Defendants contend that Count V of the Amended Complaint should be dismissed. At Count V, Plaintiff asserts a cause of action against Defendant Roger Freed for negligent infliction of emotional distress. At Paragraphs 150 through 152 of the Amended Complaint, Plaintiffs restate their claim that Freed owed Plaintiff a duty of care related to alleged conduct by co-Defendant Michelle Pulizzi. For some reason, Plaintiff conflates alleges negligent conduct with alleged intentional conduct, by including allegations of intentional conduct by Defendant Roger Freed at Paragraph 153. That reference will be stricken.

ORDER

AND NOW, this 9th day of October, 2026, it is hereby Ordered as follows:

1. The Preliminary Objections to the Amended Complaint filed on August 17, 2026, by Defendants Roger Freed, Michelle Pulizzi, and Sean Walker Defendants are granted in part and denied in part. Plaintiff is directed to file a Second Amended Complaint, within twenty (20) days of the date of filing of this Order.
2. The Second Amended Complaint will not refer to the Pennsylvania Child Protective Services Law or the Educator Discipline Act. Nothing set forth herein will be interpreted to preclude Plaintiff from seeking any appropriate instruction at trial, if supported by the evidence and applicable law.
3. If the Second Amended Complaint includes a claim for negligent infliction of emotional distress against Defendant Roger Freed, that claim will not contain the allegation set forth at Paragraph 153 of the Amended Complaint, nor any reference to alleged intentional conduct by Defendant Roger Freed.
4. The balance of the Preliminary Objections are denied.

BY THE COURT,

William P. Carlucci, Judge

cc: Count Administrator
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