

**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
WILLIAMSPORT AREA SCHOOL DISTRICT FILED AUGUST 14, 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 14, 2026, Williamsport Area School District (hereinafter sometimes referred to as “Moving Defendant” or as “WASD”) filed Preliminary Objections to the Amended Complaint. Those Preliminary Objections came before the Court for argument on October 5, 2026.

QUESTIONS PRESENTED:

1. WHETHER A DEMURRER SHOULD BE ENTERED AS TO ALL OF PLAINTIFF’S CLAIMS AGAINST WASD FOR PUNITIVE DAMAGES.
2. WHETHER A DEMURRER SHOULD BE ENTERED AS TO ALL OF PLAINTIFF’S CLAIMS AGAINST WASD ON THE BASIS THAT THE ALLEGED SEXUAL ABUSE WAS NOT FORESEEABLE.
3. WHETHER A DEMURRER SHOULD BE ENTERED AS TO COUNT 1 OF THE AMENDED COMPLAINT.
4. WHETHER A DEMURRER SHOULD BE ENTERED AS PLAINTIFF’S CLAIM AGAINST WASD BASED UPON VICARIOUS LIABILITY.

ANSWERS TO QUESTIONS PRESENTED:

1. A DEMURRER WILL BE ENTERED AS TO ALL OF PLAINTIFF'S CLAIMS AGAINST WASD FOR PUNITIVE DAMAGES.
2. A DEMURRER WILL NOT YET BE ENTERED AS TO ALL OF PLAINTIFF'S CLAIMS AGAINST WASD ON THE BASIS THAT THE ALLEGED SEXUAL ABUSE WAS NOT FORESEEABLE, BUT PLAINTIFF WILL BE DIRECTED TO FILE A SECOND AMENDED COMPLAINT.
3. A DEMURRER WILL NOT YET BE ENTERED TO COUNT I OF THE AMENDED COMPLAINT, BUT REFERENCES TO THE CHILD PROTECTIVE SERVICES LAW AND EDUCATOR DISCIPLINE ACT WILL BE STRICKEN.
4. A DEMURRER WILL BE ENTERED AS PLAINTIFF'S CLAIM AGAINST WASD BASED UPON VICARIOUS LIABILITY.

DISCUSSION:

1. A DEMURRER WILL BE ENTERED AS TO ALL OF PLAINTIFF'S CLAIMS AGAINST WASD FOR PUNITIVE DAMAGES.

The imposition of punitive damages in Pennsylvania civil litigation is rare. In the matter of *Jahanshahi v. Centura Development*, 2003 PA Super. 43, 816 A.2d 1179, 1188 (Pa.Super. 2003), the Court cited *Johnson v. Hyundai Motor America*, 689 A.2d 631 (Pa.Super. 1997), for the proposition that “a court may award punitive damages only if an actor's conduct was malicious, wanton, willful, oppressive, or exhibited a reckless indifference to the rights of others.” Suggested Standard Civil Jury Instruction 8.00 provides that the jury may award punitive damages “if you find that the conduct of the defendant was outrageous.” The definition of “outrageous” tracks the language set forth above.

Ordinarily, the determination of whether a defendant's conduct rises to the level of “outrageous conduct” lies within the sound discretion of the trier of fact. *J.J. DeLuca Co., Inc., v. Toll Naval Associates*, 2012 PA Super. 222, 56 A.3d 402, 416 (Pa.Super. 2012).

Our Superior Court has observed as follows:

It is well settled law in Pennsylvania that the decision of whether to award punitive damages and the amount to be awarded are within the discretion of the fact finder. See *Focht v. Rabada*, 217 Pa.Super. 35, 268 A.2d 157 (1970); Restatement of Torts, § 908(2) (1939); See also *King v. Towns*, 102 Ga.App. 895, 118 S.E.2d 121 (1961); *Leimgruber v. Claridge Associates, Ltd.*, 73 N.J. 450, 456, 375 A.2d 652, 655

(1977). Although punitive damages are not a favorite of the law, *Cochetti v. Desmond*, 572 F.2d 102 (3rd Cir.1978), they will only be reduced on appeal if the reviewing court determines that they are excessive under the facts of the individual case. *International Electronics Co. v. N.S.T. Metal Products Co.*, 370 Pa. 213, 88 A.2d 40 (1952).

Delahanty v. First Pennsylvania Bank, N.A., 318 Pa.Super. 90, 129, 464 A.2d 1243, 1263, (Pa.Super. 1983).

The question presented by the WASD Preliminary Objections to the Amended Complaint is whether punitive damages may ever be assessed against a school district.

In the matter of *Marko by Marko v. City of Philadelphia*, 133 Pa.Cmwlth. 574, 576 A.2d 1193 (Pa.Cmwlth. 1990), our Commonwealth Court considered an appeal from an order of the Philadelphia Court of Common Pleas granting a motion for judgment on the pleadings. The Commonwealth Court affirmed. On the question of whether the City could potentially be liable for the willful misconduct of its employees, the Court observed as follows:

Finally, Marko asserts that the Act's protections do not extend to actions of willful or malicious conduct; however, if Marko were to prove such conduct, the City as landowner would be further protected pursuant to Section 8550 of the Judicial Code, wherein the City is immune for actions of willful misconduct by its employees. *King v. Breach*, 115 Pa. Commonwealth Ct. 355, 540 A.2d 976 (1988). Moreover, the willful misconduct allegations are contained in a count for punitive damages, which are not recoverable against the City in accordance with Section 8553(c) of the Judicial Code.

Marko by Marko v. City of Philadelphia, 133 Pa.Cmwlth. 574, 576-577, 576 A.2d 1193, 1194 (Pa.Cmwlth. 1990).

In the matter of *Township of Bensalem v. Press*, 93 Pa.Cmwlth. 235, 501 A.2d 331 (Pa.Cmwlth. 1985), our Commonwealth Court reversed a jury award of punitive damages in favor of the property owner and against Bensalem Township. In its thorough review of the nature and purpose of punitive damages, the Court noted as follows.

Appellants next argue that the trial court erred in refusing to charge the jury that the Presses could not recover punitive damages against the Township. The question of whether punitive damages can be assessed against a municipality absent a statute specifically authorizing such damages is a question of first impression in this Court. The trial court read *Ayala* as the Supreme Court's attempt to place governmental officials in precisely the same position as corporate officers. We certainly agree that the language of *Ayala* is broad, but we believe it to be highly significant that *Ayala*

dealt, in fact, only with compensatory damages and was concerned with compensating injured plaintiffs. Nowhere is the question of punitive damages mentioned.

A review of the law in this area has revealed that in other states where the issue of punitive damages against a municipality arose in the absence of a specific statute authorizing an award of such damages the great weight of authority is that such assessment is improper. It would appear that only Iowa and New York have decided to the contrary.⁷ The rationale of the majority view is that the purpose of punitive damages is to punish the wrongdoer and when that wrongdoer is a municipality, the assessment of punitive damages serves only to increase taxes, and so, harm the very individuals who, theoretically, should benefit from the award of punitive damages *Fisher v. City of Miami*, 172 So.2d 455 (Fla.1965). Additionally, the *Fisher* court noted that in determining the amount of punitive damages the relevant consideration is the wealth of the defendant. Since a municipality's ability to raise revenue is based upon its taxing power, this measuring stick is of little use. The *Fisher* court further opined that it is to be assumed that municipal officials will carry out their duties and discipline wrongdoing employees if such action is warranted. See also *City of Gary v. Falcone*, 169 Ind.App. 295, 348 N.E.2d 41 (1976). One jurisdiction allowing the award of punitive damages against a municipality, while acknowledging the above arguments, maintains that virtually the same contentions have been raised, argued and rejected with respect to private corporations. The Iowa Supreme Court in *Young v. City of Des Moines*, 262 N.W.2d 612 (1978), also opined that permitting the imposition of punitive damages would result in greater care being taken in the selection and training of municipal employees. Finally, the Iowa court stated that assessing the amount of punitive damages is not an insurmountable problem because this matter is left to the discretion of the jury and is subject to judicial review.

A New York lower court case, *Hayes v. State*, 80 Misc.2d 498, 363 N.Y.S.2d 986, (1975), *rev'd on other grounds and punitive damages issue not reached*, *248 50 A.D.2d 693, 376 N.Y.S.2d 647, *aff'd per curiam and punitive damages issue not reached*, 40 N.Y.2d 1044, 392 N.Y.S.2d 282, 360 N.E.2d 959, (1976), reaching a result in accord with the *Young* case, was influenced by the fact that case law *prohibiting* the recovery of punitive damages involved *before* the enactment of the New York statute waiving sovereign immunity. The court thus read the waiver of sovereign immunity as an indication of a trend to allow more generous recoveries against municipalities. Additionally, the court rationalized that had the legislature intended to restrict the waiver to recovery of compensatory damages it would have so specified instead of indicating by broad language that it wished to place municipality on par with private sector employers. It is to be noted that in Pennsylvania, this "waiver" of immunity arose not from a statute enacted by the legislature, but from the Pennsylvania Supreme Court's eradication of a doctrine which it had previously established.

When the common pleas court decided this issue it did not have the benefit of a recent scholarly opinion written by Judge Donald Wieand of the Pennsylvania Superior Court. In considering this issue in *Feingold v. Southeastern Pennsylvania*

Transportation Authority, 339 Pa.Superior Ct. 15, 488 A.2d 284 (1985), Judge Wieand noted that “[a] plaintiff who receives punitive damages has already been compensated for the wrong suffered by an award of compensatory damages. To the extent that an award of punitive damages is not intended as compensation, the courts have said, it is a windfall to the plaintiff. Punitive damages should be awarded, therefore, only if they serve a valid purpose.” *Id.* at 28, 488 A.2d at 291. Our own assessment of the matter leads us to conclude, as did Judge Wieand, that no valid purpose is served in assessing such damages, but rather the effect is merely to place the burden on the tax paying public. Finally, we agree with Judge Wieand’s cogent observation that the purpose of the *Ayala* decision was to compensate wronged individuals, not punish wrongdoers. In considering this same legal argument, that waiver of sovereign immunity implicitly permitted assessment of punitive damages against a municipality, the Illinois court in *George v. Chicago Transit Authority*, 58 Ill.App.3d 692, 15 Ill.Dec. 896, 374 N.E.2d 679 (1978) likewise concluded that abrogation of the doctrine of sovereign immunity did not, *a fortiori*, mean municipalities were liable for punitive damages. We believe this to be the better reasoned approach.

Township of Bensalem v. Press, 93 Pa.Cmwlt. 235, 246-249, 501 A.2d 331, 336-338 (Pa.Cmwlt. 1985).

In his brief in opposition to the WASD Preliminary Objections, Plaintiff relies upon *Daniel v. Wyeth Pharmaceuticals, Inc.*, 15 A.3d 909, 930 (Pa.Super. 2011), and upon *Archibald v. Kemble*, 971 A.2d 513, 519 (Pa.Super. 2009). While both opinions deal with the issue of punitive damages, neither involved a municipal defendant.

The Court has not located any authority for the proposition that a municipal school district can be subject to punitive damages, either for its own negligence, or for the negligence or intentional acts of its employees. For that reason, a demurrer will be entered to Plaintiff’s claim against WASD for punitive damages.

2. A DEMURRER WILL NOT YET BE ENTERED AS TO ALL OF PLAINTIFF’S CLAIMS AGAINST WASD ON THE BASIS THAT THE ALLEGED SEXUAL ABUSE WAS NOT FORESEEABLE, BUT PLAINTIFF WILL BE DIRECTED TO FILE A SECOND AMENDED COMPLAINT.

WASD sought a demurrer to the claims of negligence and failure to warn against WASD set forth in Plaintiff’s original Complaint, based upon its contention that the claimed sexual assaults were not reasonably foreseeable. The Court reviewed the guidance provided by our Superior Court in the matter of *Huddleston v. Infertility Center of America, Inc.*, 700 A.2d 453 (Pa.Super. 1997):

Our analysis is not at an end, however, for we must determine whether the harm suffered in this case was reasonably foreseeable. See *Griggs v. BIC Corp.*, 981 F.2d 1429, 1435 (3d Cir.1992) (foreseeability is an integral part of determination that duty exists under Pennsylvania negligence law). Although ICA attempts to frame the issue as whether it is foreseeable that a sperm-donor father would brutally *murder* his biological child, we perceive the actual issue to be whether it is reasonably foreseeable that *child abuse* could result in a surrogacy situation. “[I]n the context of duty, ‘[t]he concept of foreseeability means the likelihood of the occurrence of a *general* type of risk rather than the likelihood of the occurrence of the precise chain of events leading to the injury.’ ” *Kleinknecht, supra*, 989 F.2d at 1369 (citation omitted) (emphasis added). “Although it is true that a defendant is not required to guard against every possible risk, he must take reasonable steps to guard against hazards which are generally foreseeable.” *Kleinknecht, supra*, 989 F.2d at 1370 (citation omitted).

Huddleston v. Infertility Center of America, Inc., 700 A.2d 453, 460 (Pa.Super. 1997).

Based upon that guidance, the Court directed Plaintiff to file an Amended Complaint, which either deleted claims against WASD of negligence and failure to warn, or “set forth sufficient material allegations of fact to support the conclusion that the alleged conduct by Freed and Pulizzi was foreseeable by WASD.” In the view of the Court, Plaintiff has failed to provide the required material allegations of fact.

In his brief in opposition to the WASD Preliminary Objections, Plaintiff points to allegations in the Amended Complaint that WASD promoted Freed to Principal, that WASD provided Freed with a cell phone, and that Freed had periodic one-one-one contact with Plaintiff. Those allegations are insufficient to support the conclusion that the alleged conduct by Freed and Pulizzi was foreseeable by WASD.

The Court is mindful that a demurrer would deprive the Plaintiff of an opportunity to conduct discovery on the issue of foreseeability. For that reason, the Court will permit Plaintiff one more opportunity to amend, setting forth sufficient material allegations of fact to support a finding that Plaintiff’s claimed damages were foreseeable by WASD.

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

At Paragraphs 23 through 28 of its Preliminary Objections, WASD contends that Plaintiff's claims of negligence and failure to warn against WASD should be dismissed. The Court notes that Plaintiff alleges at Paragraph 121(t) that WASD violated either the Pennsylvania Child Protective Services Law or the Educator Discipline Act. The Court is unaware of any authority that either of those statutes were intended to create a civil cause of action. For that reason, reference to those statutes will be stricken. 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.

4. THE COURT WILL ENTER A DEMURRER AS TO ALL OF PLAINTIFF'S CLAIMS OF VICARIOUS LIABILITY AGAINST WASD.

In its Opinion and Order filed July 7, 2026, the Court entered a demurrer to all of Plaintiff's claims against WASD, which are based upon vicarious liability. For some inexplicable reason, they remain in Paragraphs 6, 59, 60, 61, 63, 100, 101, 103, 118, and 122 of the Amended Complaint. They will be stricken, once again.

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 14, 2026, by Williamsport Area School District 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 delete any reference to a claim of vicarious liability against WASD, in any paragraph of the Second Amended Complaint.
3. The Second Amended Complaint will either delete the claim of negligence against WASD, or will set forth sufficient material allegations of fact to support the conclusion that the alleged conduct by Freed and Pulizzi was foreseeable by WASD.

4. The Second Amended Complaint will either delete the claims of failure to warn and failure to rescue against WASD, or will set forth sufficient material allegations of fact to support the conclusion that the alleged conduct by Freed and Pulizzi was foreseeable by WASD, and that WASD has a legal duty to warn or rescue as a result.
5. A demurrer is hereby entered to Plaintiff's claim against WASD for punitive damages. The Second Amended Complaint will not include that claim against WASD.
6. 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.
7. The balance of the Preliminary Objections are denied.

BY THE COURT:

William P. Carlucci, Judge

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