

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

JILL CORDAN,	:	
	:	
Plaintiff,	:	No.: 2:25-CV-3179-JMG
	:	
v.	:	
	:	
JEFFREY MITCHELL, TOMMY	:	CIVIL ACTION- LAW
RYAN and EAST COCALICO TOWNSHIP	:	
	:	<b><u>JURY TRIAL DEMANDED</u></b>
Defendants.	:	
	:	

**DEENDANTS’ MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT  
PURSUANT TO F.R.C.P. 12(b)(6)**

Defendants, East Cocalico Township (“ECT”), Jeffery Mitchell and Tommy Ryan (collectively referred to as “ECT Defendants”), by and through its undersigned counsel, Bellwoar Kelly, LLP, files this Motion to Dismiss Plaintiff’s Amended Complaint (ECF 20) pursuant to Federal Rule of Civil Procedure 12(b)(6), and request that for the reasons fully set forth in ECT Defendants’ Memorandum of Law in Support of its Motion to Dismiss, this Court dismiss all claims asserted by Plaintiff, with prejudice.

**BELLWOAR KELLY LLP**

By: /s/ Sheryl L. Brown  
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	:	

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on this day a true and correct copy of Defendants' Motion to Dismiss Plaintiff's Amended Complaint Pursuant to F.R.C.P. 12(b)(6) was served upon the following via ECF:

Brian M. Andris, Esquire  
206 N. Jennersville Road  
Suite 200  
West Grove, PA 19390

December 1, 2025

**BELLWOAR KELLY LLP**

By: /s/ Sheryl L. Brown  
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**ORDER**

AND NOW, this            day of            , 2025, upon consideration of Defendants' Motion to Dismiss Plaintiff's Amended Complaint Pursuant to F.R.C.P. 12(b)(6), and any response thereto, it is hereby **ORDERED** and **DECREED** that Defendants' Motion is **GRANTED** and all claims against it are **DISMISSED**, with prejudice.

BY THE COURT:

\_\_\_\_\_  
J.

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EASTERN DISTRICT OF PENNSYLVANIA**

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Plaintiff,	:	No.: 2:25-CV-3179-JMG
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Defendants.	:	
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**DEENDANTS’ MEMORANDUM OF LAW IN SUPPORT OF ITS  
MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT  
PURSUANT TO F.R.C.P. 12(b)(6)**

Defendants East Cocalico Township (“ECT”), Jeffery Mitchell and Tommy Ryan (collectively referred to as “ECT Defendants”), by and through its undersigned counsel, Bellwoar Kelly, LLP, files this Motion to Dismiss Plaintiff’s Amended Complaint (ECF 20) pursuant to Federal Rule of Civil Procedure 12(b)(6), and in support thereof, avers as follows:

**I. INTRODUCTION**

Despite being provided an opportunity to cure the previously deficiently pled complaint, Plaintiff fails to do so, requiring dismissal of all constitutional claims, with prejudice. A review of the Amended Complaint fails to reveal sufficiently pled claims for 1<sup>st</sup> Amendment Retaliation, Equal Protection, Monell, Failure to Train or §1985 Conspiracy. As such, this Court must dismiss Plaintiff’s claims, with prejudice. Likewise the re-pled state law claims of conspiracy and intentional infliction of emotional distress require dismissal (or this court’s rejection of jurisdiction); along with a rejection of Plaintiff’s newly pled claim for “financial harm” related to a purported violation of the Pennsylvania Local Tax Collection Law stemming from ECT’s adoption of the **November 16, 2023 Ordinance**.

## II. BRIEF STATEMENT OF PROCEDURAL HISTORY

Plaintiff, Jill Cordan (“Cordan”), initially filed this action against East Cocalico Township (“ECT”), Supervisor Mitchell and former Manager Ryan initially asserting civil rights and state law claims against defendants including but not limited to 1st Amendment Retaliation, *Monell/Failure to Train*, Equal Protection, Conspiracy (§1985 And State Law), §1981 and Intentional Infliction of Emotional Distress. (ECF 1) This Court previously granted Defendants’ Motion to Dismiss dismissing all claims; with dismissal of the §1981 claim with prejudice, and declining jurisdiction over the state law claims. (ECF 17). Plaintiff was provided leave to file an Amended Complaint (“AC”), which was timely filed. (ECF20).

As set forth in the AC, Plaintiff asserts civil rights claims for purported violations of 1<sup>st</sup> Amendment (Retaliation), *Monell/Failure to Train*, Equal Protection and §1985 Conspiracy. She also reasserts common law conspiracy and intentional infliction of emotional distress claims. Plaintiff also asserts a new claim for a violation of Pennsylvania Local Tax Law (Count VII).

Defendants timely file this Motion to Dismiss the Amended Complaint, seeking dismissal of all claims, with prejudice.

## III. STATEMENT OF FACTS<sup>1</sup>

Taking the allegations of the complaint as true for purposes of this motion only, Cordan asserts as follows.

Cordan is an **openly** gay woman and citizen of ECT (ECF 20, AC. ¶10) . On January 3, 2022, she took office as the elected tax collector for ECT. (AC ¶11) Prior to her election she was outspoken with regard to matters concerning ECT. (AC. ¶12) “**For example**” this included raising concerns regarding possible fraud in the fire department. (AC ¶13). **Prior to being elected,**

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<sup>1</sup> Amended factual allegations are in bold.

Plaintiff was appointed to a committee to investigate a “possible change” to the police union retirement plan administration. (AC ¶14) Defendant Mitchell was the Treasurer for ECT Board of Supervisors. (AC ¶15). **Defendant Mitchell engaged in a pattern of antagonism and retaliation that began after Cordan’s election and continued “unabated” to the present day.** (AC ¶16). **Defendants’ conduct was intended to discredit Cordan and her reputation as a result of her “exercise of free speech and the fact that she was an openly gay female”.** (AC ¶17). In November 2021, after Cordan was elected, Mitchell publicly accused Cordan of misconduct related to her involvement with the police union committee. (AC ¶18). Mitchell publicly stated (*no dates*) that Plaintiff and the committee hid documents and recommendations generated from the investigation. (AC ¶19). Cordan asserts the allegations were false and baseless and the township was saved \$400,000 to \$500,000 due to the committee’s efforts. (AC ¶20).

In 2018<sup>2</sup>, Mitchell falsely stated Plaintiff burglarized the Township office to alter Township documents. (AC ¶21). This continued “**after plaintiff was elected**”. (AC ¶22). After her election, but before being sworn in on December 2, 2021, at a public meeting, Cordan resigned her position on the pension committee and claimed Mitchell’s conduct was the cause of her resignation. (AC ¶23).

Mitchell retaliated against Cordan in January of 2022 by deliberating ill-equipping her to perform her duties. (AC ¶24). Specifically, Mitchell refused to provide Plaintiff with a “new” laptop computer. (AC ¶25). Cordan claims the “new laptop” was an important component to her performing her duties “effectively and efficiently” and it was accounted

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<sup>2</sup> Approximately 4 years before taking office as Tax Collector.

for in the 2022 Board approved budget. (AC ¶26). Plaintiff alleged the refurbished laptop did not work properly. (AC ¶27). The “sudden and abrupt change in policy” was deliberately done to interfere with Cordan’s job performance and in retaliation for comments made about Mitchell upon her resignation from the police pension committee “weeks prior to her taking office.” (AC ¶28). Cordan filed a “formal, hostile work environment claim” against Mitchell in January 2023 after approximately one year in office. (AC ¶29). She filed the complaint with the law firm of Eckert Seamens, who represented ECT. (AC ¶29). Prior to this, two other township officials (Financial Administrator and Police Chief) filed complaints against Mitchell. (AC ¶30). *(no date)*

Eckert Seamans sent Plaintiff a letter demanding she perform her duties after filing her hostile work environment complaint. (AC ¶31). *(No date provided)* The letter was intended as an intimidation tactic to silence Plaintiff. (AC ¶32). Neither the Financial Administrator nor the Chief of Police received a “threatening” letter like Plaintiff. (AC ¶33). As a result of the investigation, “updated training” for whistleblower and Title VII laws was recommended to ECT employees and elected officials. (AC ¶34). *(no date provided)*. Based upon Plaintiff’s knowledge, no “such training” was conducted. (AC ¶35).

Defendant Ryan was hired as ECT's Township manager in February 2023. (AC ¶36) About the same time, ECT was considering changing tax management systems, **to which Plaintiff objected because it would complicate her tax collecting duties.** (AC ¶37) The existing tax management system was used without issue by Kurt Fitchorn and there was no advantage to **changing it.** (AC ¶38). Plaintiff claims she was delayed in preparing tax invoices to ECT citizens due to the township's delay in calculating hydrant and streetlight taxes. (AC ¶39). In or around

February 2023, Mitchell and Supervisor Bonura<sup>3</sup> publicly blamed her for the delay in tax invoicing **to discredit her and undermine her reputation.** (AC ¶40). At an October 2023 meeting, defendant Ryan publicly stated plaintiff was the worst tax collector ever. (AC ¶41). Cordan sent a letter to the Board of Supervisors **dated October 20, 2023** saying that she would no longer communicate directly with Manager Ryan **due to his open animosity toward her.**<sup>4</sup> (AC ¶42)

**Shortly thereafter, in retaliation for her exercising her free speech about Ryan,** ECT and defendants Mitchell and Ryan implemented a plan to finally punish plaintiff for her exercise of free speech. (AC ¶43) It was proposed that plaintiff be stripped of her responsibility as local tax collector and outsourced to the Lancaster County Tax Collection (AC ¶44) **The Board adopted an Ordinance for the change in the LST collection on November 16, 2023 (AC ¶45). The change, as acknowledged by Defendants, was to save on commissions paid to Plaintiff. (AC ¶46).** The proposal would have cost her approximately \$20,000 in yearly commission. (AC ¶47). **The change was in violation of the Local Tax Collection Law and was a policy implemented to financially harm Plaintiff. (AC ¶48). The change in policy and procedure was championed by Defendants, approved and caused economic harm to Plaintiff. (AC ¶49).**

Defendant ECT filed a **mandamus** lawsuit against Cordan demanding that she perform her duties. (AC ¶50)<sup>5</sup> ***During the mandamus proceeding, Defendants objected to Plaintiff having***

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<sup>3</sup> Not a named Defendant.

<sup>4</sup> Manager Ryan resigned effective March 16, 2025 upon motion and vote to accept his resignation. A true and correct copy of the February 20, 2025 Minutes are attached hereto and marked Exhibit A.

<sup>5</sup> A copy of the February 16, 2024, Complaint in Mandamus, with exhibits, filed in the Lancaster County Court of Common Pleas is attached hereto and marked Exhibit B. This Court may consider documents relevant to plaintiff's claims which are "attached to or submitted with the complaint, and any 'matters incorporated by reference or integral to the claim, items subject to judicial notice, matters of public record, orders, [and] items appearing in the record of the case.'" *Buck v. Hampton Twp. Sch. Dist.*, 452 F.3d 256, 260 (3d Cir. 2006).



a non-approved deputy assisting in the tax office. (AC ¶51). The Deputy had been working with Plaintiff for more than 2 years without issue. (AC ¶52). The Deputy was Plaintiff's domestic partner who was approved "by the Chairman of the Board of Supervisors" after Plaintiff took office. (AC ¶53). Plaintiff had discretion who would serve as her deputy and was approved by the Chairman. (AC ¶54). Defendants requested the deputy be brought to a public meeting to meet her and ask questions. (AC ¶55). Defendants were aware she had been working in the office for over a year. (AC ¶56). There was no policy for a deputy to appear at a public meeting. (AC ¶57). The deputy appeared at a public meeting in March 2024 wherein Defendants demanded to see her resume. (AC ¶58). Defendants ignored Plaintiff and her deputy and as a result the deputy resigned. (AC ¶59). Defendants refused to approve recommended alternate deputies. (AC ¶60). "To this day, Plaintiff does not have a deputy". (AC ¶61).<sup>6</sup>

In March of 2024, Plaintiff "discovered" that Mitchell publicly stated that Cordan needed to get out of the building because she is a lesbian and lives with a woman. (AC ¶62). The comments are believed to be heard by 2 persons<sup>7</sup>. (AC ¶63). Shortly thereafter, Mr. McCrea stated in a public meeting the Defendants were coming after Plaintiff and Mitchell said it was because she was a lesbian. (AC ¶64). *(No date provided)*. Plaintiff and ECT settled the mandamus lawsuit in October, 2024. (AC ¶65). Plaintiff's refusal to sign a release was an exercise of her free speech. (AC ¶66).

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<sup>6</sup> ECT voted unanimously to approve Mr. Carrasco to collect and settle taxes during the incapacitation of the Tax Collector. See, Exhibit A.

<sup>7</sup> No dates are provided for the date of the alleged comment; or when the 2 persons are 'believed' to have heard it or comment at a meeting.

Defendants hatched a second plot aimed at harming Plaintiff economically. (AC ¶67) Defendants proposed that the fire hydrant and streetlight taxes be rolled into the Township real estate taxes, depriving plaintiff of additional tax revenue commissions. (AC ¶68) **Defendants admitted this was done to eliminate commissions from Plaintiff. (AC ¶69). The change in ECT policy was championed by Defendants, approved by the Board and Plaintiff suffered economic harm. (AC ¶70). The change was in violation of the Local Tax Collection Law. (AC ¶71). The policy change occurred in November 2024 after the settlement of the mandamus action. (AC ¶72).**

Cordan asserts ECT removed all video recordings of ECT public meetings that would corroborate her allegations against defendants. (AC ¶73) Then, in May 2025 the *East Cocalico Republican Committee*<sup>8</sup> circulated a mailer falsely accusing her of mismanagement of office and having over 100 complaints lodged against her. (AC ¶74) It was “believed” the information was provided by Mitchell **motivated by his desire to retaliate against Plaintiff and materially interfere with her election bid.** (AC ¶75) Cordan lost the primary election in a landslide. (AC ¶76).

#### IV. LEGAL ARGUMENT

##### A. Questions Presented

1. Question: Should Plaintiff’s First Amendment Retaliation Claim be dismissed, with Prejudice? (Count I)

Suggested Answer: Yes.

2. Question: Should Plaintiff’s Monell and/or Failure to Train Claim be dismissed, with prejudice? (Count II)

Suggested Answer: Yes.

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<sup>8</sup> Not a named Defendant.

3. Question: Should Plaintiff's Equal Protection Claim be dismissed, with prejudice? (Count III)

Suggested Answer: Yes.

4. Question: Should Plaintiff's §1985 Conspiracy Claim; and common law Conspiracy Claim be dismissed with prejudice? (Counts IV and V)

Suggested Answer: Yes.

5. Question: Should Plaintiff's Intentional Infliction Be Dismissed, with prejudice where the Merits of such claims are not met; and where Defendants are entitled to immunity? (Counts VI)

Suggested Answer: Yes.

6. Question: Should Plaintiff's violation of Pennsylvania Local Tax Collection Law be dismissed; or should this court decline ancillary jurisdiction? (Count VI)

Suggested Answer: Yes.

## **B. Legal Standard**

A motion to dismiss under Federal Rule of Civil Procedure 12(b) tests the legal sufficiency of the complaint. *Sturm v. Clark*, 835 F.2d 1009, 1011 (3d Cir. 1987). A complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). A motion to dismiss for failure to state a claim may be granted if, after accepting all well-pleaded facts in the complaint as true and viewing them in the light most favorable to the non-moving party, plaintiff is not entitled to relief. *Maio v. Aetna, Inc.*, 221 F.3d 472, 482 (3d Cir. 2000).

Although a complaint need not contain detailed factual allegations, it must have more than unadorned, "defendant-unlawfully-harmed-me" type of accusations. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). To survive a motion to dismiss, the complaint must contain sufficient factual matter, accepted as true, to "state

a claim for relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. The Court must engage in a two-step inquiry to determine the sufficiency of the facts alleged in a complaint:

First, the factual and legal elements of a claim should be separated. The district court must accept all of the complaint’s well-pleaded facts as true, but may disregard any legal conclusions. *Iqbal*, 129 S. Ct. at 1949. Second, a district court must then determine whether the facts alleged in the complaint are sufficient to show that the plaintiff has a “plausible claim for relief.” *Id.* at 1950. In other words, a complaint must do more than allege a plaintiff’s entitlement to relief . . . . As the Supreme Court instructed in *Iqbal*, “[w]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged - but has not ‘show[n]’ – ‘that the pleader is entitled to relief.’” *Iqbal*, 129 S. Ct. at 1949.

*Fowler v. UPMC Shadyside*, 578 F.3d 203, 210-11 (3d Cir. 2009). The assumption of truth does not apply to legal conclusions couched as factual allegations, or to “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Iqbal*, 129 S. Ct. at 1949. A court is not compelled to accept unsupported conclusions and unwarranted inferences or a legal conclusion couched as a factual allegation. *Wheeler v. Wheeler*, 639 F. Appx. 147, 149 (3<sup>rd</sup> Cir. 2016) (quoting *Morrow v. Balaski*, 719 F.3d 160, 165 (3<sup>rd</sup> Cir. 2013)).

### **C. 1<sup>st</sup> Amendment Retaliation Claim Must Be Dismissed with Prejudice**

To state a claim for First Amendment Retaliation, Plaintiff must show:

(1) constitutionally protected conduct, (2) retaliatory action sufficient to deter a person of ordinary firmness from exercising his constitutional rights, and (3) a causal link between the constitutionally protected conduct and the retaliatory action.

*Thomas v. Independence Twp.*, 463 F.3d 285, 296 (3d Cir. 2006). Where alleged statements or actions relate to public officials, there is a particularly high threshold. *Wilson v. Yerke*, 604 Fed.Appx.149, 151 (3<sup>rd</sup> Cir. 2015). And while the First Amendment may prohibit retaliation

against other public officials for speech pursuant to their official duties, it will only do so “when the retaliation interferes with their ability to adequately perform their elected duties.” *Werkheiser v. Pocono Twp.*, 78 F.3d 172, 181 (3<sup>rd</sup> Cir. 2015). As previously noted by this Court, the causal connection can be established by showing (1) an unusually suggestive temporal proximity between the protected activity and the retaliatory action or a pattern of antagonism coupled with timing to establish the causal link. *Forish v. Brasile*, No. 2:23-CV-1316, 2024 WL 3046996 at \*3 (W.D. Pa. June 18, 2024). If a plaintiff relies on circumstantial evidence, the adverse action is usually measured in days, and not weeks or months. *Id.*

A review of the amended well-pleaded facts fails to establish any causal connection to the alleged retaliatory conduct. For example, Plaintiff alleges that she exercised her constitutionally protected rights to:

- (a) speak publicly criticizing Mitchell when she resigned from the police pension committee<sup>9</sup>
- (b) Object that she was not provided a “new laptop”;<sup>10</sup>
- (c) keep a duly approved deputy or select a new deputy<sup>11</sup>;
- (d) file a formal hostile work environment complaint<sup>12</sup>;
- (e) Refused to deal with Manager Ryan after he said she was worst tax collector ever<sup>13</sup>;
- (f) Refuse to sign release to waive her rights to bring legal action;<sup>14</sup>
- (g) Run for re-election without defendants’ interference<sup>15</sup>

AC ¶89. Plaintiff asserts the following acts of retaliation based upon her claimed protected rights:

- (a) Violated the ECT budget by not providing a “new” laptop;
- (b) Interfered with her duties by not providing the laptop;
- (c) Sent her a threatening letter in response to her hostile work environment complaint;
- (d) publicly blamed her for their failure to send out timely tax invoices;

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<sup>9</sup> She resigned after her election, but before being sworn in as Tax Collector.

<sup>10</sup> January 2022.

<sup>11</sup> After February 2024.

<sup>12</sup> January 2023

<sup>13</sup> October 2023

<sup>14</sup> Mandamus Lawsuit settled in October 2024 (AC 65).

<sup>15</sup> May, 2025 (AC 73).

- (e) interfered with her selection of a deputy, refusing her to keep her “duly approved” deputy or approve an alternate;
- (f) publicly referred to her as the worst tax collector ever;
- (g) Stripped her of income by outsourcing tax collection;
- (h) Sued Plaintiff in mandamus; and
- (i) interfered in her election bid by providing false information.

AC ¶90. As will be addressed more specifically below, these claimed retaliatory events fail to support a violation of Plaintiff’s 1<sup>st</sup> Amendment Rights. The claimed protections and claimed retaliatory conduct have no temporal or causal relationship and otherwise fail to constitute constitutionally violative conduct.

- **Failure to be provided a “new” laptop**

Plaintiff alleges, without specific dates or Board action, that she was not provided a “new” laptop which precluded her ability to perform the functions of her elected office. She alleges this was Mitchell’s decision. While she references a budget for a new laptop, she does not dispute she was provided with a computer<sup>16</sup>. Additionally, there is no temporal proximity considering claims of Mitchell’s conduct before she was elected; as compared to not being provided with a new laptop’ after she took office. Furthermore, there is no causal connection to any protected activity. (Before she was elected she was appointed to a township committee regarding the police union pension). She also claims that after her election, Defendant Mitchell “engaged in a pattern of antagonism and retaliation” which continued “unabated”. (AC ¶16). Again, Plaintiff fails to provide sufficient factual allegations to support this conclusory statement.

- **Sent Her a Threatening Letter**

Cordan filed a hostile work environment complaint in January 2023. In response, the law firm of Eckert Seamans sent her a letter demanding she perform her duties, intended as an

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<sup>16</sup> This is alleged to have occurred in January 2022, more than 3 years prior to the filing of her complaint; and likely outside a 2-year statute of limitations for retaliation purposes.

intimidation tactic. She later references that this letter was threatening in nature. Plaintiff fails to identify the date of the alleged letter; or any specific portions that would be deemed to be threatening. As such, these allegations are again nothing more than conclusory allegations not entitled to the assumption of the truth. Furthermore, this alleged conduct is likely more than 2 years prior to the filing of Plaintiff's complaint herein and not examples of any protective or retaliatory conduct. (Nor any temporal or causal connection).

- **Publicly blamed her for untimely tax invoicing**

This again is a conclusory statement not entitled to be deemed a truthful factual allegation. She claims this occurred in February 2023; which again fails to support any temporal or causal connection.

- **Interfered with Deputy Tax Collector Appointment**

Plaintiff claims her domestic partner was appointed Deputy Tax Collector by the Chairperson of the Board (AC ¶53). Pursuant to the Local Tax Collection Law, a tax collector, with "the approval of the taxing district", may deputize a tax collector. Section 5511.22 *Deputy Tax Collectors*. A taxing district is defined as the municipality. Section 5511.2 *Definitions*. Even taking Plaintiff's allegation as true that the *Chairperson* approved of an appointment, the appointment is deficient without approval of ECT, i.e. the Board of Supervisors. Therefore, despite Plaintiff's allegations, no appointment was legally approved. Second, Plaintiff claims the deputy had been "assisting" for two years. This again defies the Local Tax Collection Law ("LTCL") where the deputy tax collector only performs if the tax collector is incapacitated. Therefore, there was no interference by Defendants where the LTCL does not provide for an assistant, but rather statutorily defines a Deputy. Accordingly, there can be no causal connection of a protected right

and retaliation. (And, a Deputy was duly appointed in February 2025, before this litigation commenced).

- **Referred to her as worst tax collector ever**

Assuming this statement by Mr. Ryan as true, it fails to support any retaliatory conduct or a pattern of antagonism coupled with timing to establish a causal link. In fact, as a result of this comment, she alleges that effective October 20, 2023, she would no longer communicate with him. See, Letter attached to Mandamus Complaint. This establishes *her refusal to perform her job functions*, not that any constitutional violation deterring her from performing her function. In fact, the reasons provided in her letter rose to the level of “unprofessional and disrespectful behavior and comments”, not allegations of a violation of her civil rights. This fails to establish retaliatory conduct.

- **Stripped of Income**

The Board enacted an Ordinance to outsource the tax collection to an outside agency on November 16, 2023 (AC ¶45). As the Ordinance was approved more than 2 years prior to the filing of his Amended Complaint, Plaintiff again lacks any temporal or causal link to Plaintiff’s claimed protective conduct and any retaliatory conduct.

- **Sued Plaintiff in Mandamus**

The lawsuit filed in February 2024 followed the Solicitor’s letter responding to Plaintiff’s requests and questioning about overdue 2024 invoices and whether she could proceed with her elected position. The lawsuit was settled several months later by agreement of the parties. As alleged in the Amended Complaint, the lawsuit was based upon ECT’s duties to ensure the tax collector performed her duties. This was not retaliatory to any constitutionally protected right; and



did not interfere with her elected duties. In fact, the lawsuit was resolved agreement of the parties in October 2024.

- **Interfered in Re-Election**

Plaintiff continues to assert some form of election interference, through a third party. Such allegations are not entitled to an assumption of the truth nor sufficient to establish retaliatory conduct by Defendants. (For example, Plaintiff alleges a ‘belief’ the information was provided by Mitchell, without any supporting facts).

A review of the claimed protected activity and claimed retaliatory conduct fails to support any temporal or causal link. Plaintiff continues to allege facts which occurred before her election; and then continues to fail to support other allegations with dates of conduct/events. Her claims of conduct in 2022; then non-related issues in 2023 – none of which support claimed retaliatory conduct which interfered with her ability to adequately perform her elected duties. Therefore, Plaintiff’s 1<sup>st</sup> Amendment Retaliation Claim must be dismissed, with prejudice.

#### **D. Plaintiff’s *Monell*/Failure to Train Claims Fails as A Matter Of Law (Count II)**

##### **1. Monell**

Under *Monell v. Department of Social Services of the City of New York*:

[A] local government may not be sued under § 1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government’s policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983.

436 U.S. 658, 694 (1978). *Monell* liability may be based upon a formal government policy or an informal custom so pervasive as to virtually constitute law. *Andrews v. City of Philadelphia*, 895 F.2d 1469, 1480 (3d Cir. 1990). A formal government policy is made when a “decision maker possess[ing] final authority to establish municipal policy with respect to the action issues an

official proclamation, policy, or edict.” *Andrews*, 895 F.2d at 1480. A course of conduct is considered to be a ‘custom’ under *Monell* when the practices of state officials are so permanent and well settled as to virtually constitute law “even though such a custom has not received formal approval through the body’s official decision-making channels.” *Monell*, 436 U.S. at 691.

First, as Plaintiff’s allegations fail to support an underlying 1<sup>st</sup> or 14<sup>th</sup> Amendment violation, the *Monell* claim must be dismissed. *Williams v. West Chester*, 891 F.2d 458 (1990). Second, even assuming an underlying constitutional violation (denied), there are no well-pleaded factual allegations to support a plausible claim of a violative policy, custom or practice.

In an attempt to cure the previously defective complaint, Plaintiff identifies Board action alleging violative policies. For example, Plaintiff asserts the following

The “sudden and abrupt change in policy” was deliberately done to interfere with Cordan’s job performance. (AC28)(referencing denial of new laptop)

The change was in violation of the Local Tax Collection Law and a “policy” implemented to financially harm Plaintiff. AC 48. (referencing outsourcing)

The policy change occurred in November 2024 after the *settlement* of the Mandamus action. AC 72 (referencing hydrant/streetlight taxes)

Even assuming these conclusory statements as true, they fail to support a policy, custom or practice violative of plaintiff’s *constitutional* rights. As set forth in the Amended Complaint, Plaintiff asserts constitutional violations for 1<sup>st</sup> Amendment Retaliation; and for equal protection – based upon her status as a gay female. The examples provided fail to support any established prior policy or policy changes violative of Plaintiffs rights. Rather, the claims of policy ‘change’ relate to Plaintiff’s own circumstances, insufficient to support a *Monell* claim. Plaintiff has failed to allege any well-pleaded factual allegations to support a plausible claim for relief (*Monell*), Count II, the *Monell* Claim must be dismissed, with prejudice. See, *Iqbal/Twombly*.

## 2. Failure to Train

Plaintiff's factual support for the failure to train claim is set forth as follows:

34. As a result of the investigation of the hostile work environment complaints made by Plaintiff, Ms. Lumis and Mr. Keppley, the investigating attorney recommended that updated training regarding whistleblower and Title VII laws be provided to ECT employees and elected officials.

AC ¶34. To establish §1983 liability for failure to train "... requires a showing that the failure amounts to 'deliberate indifference' to the rights of persons with whom those employees will come into contact." *Thomas v. Cumberland Cty.*, 749 F.3d 217, 222 (quoting *Carter v. City of Phila.*, 181 F.3d 339, 357 (3d Cir.1999)). "[T]he identified deficiency in a city's training program must be closely related to the ultimate injury;" or in other words, "the deficiency in training [must have] actually caused" the constitutional violation. *Id.* (quoting *City of Canton, Ohio v. Harris*, 489 U.S. 378, 391, 109 S. Ct. 1197, 103 L. Ed. 2d 412 (1989)).

As averred by Plaintiff, the recommended "updated training" stemmed from hostile work environment complaints. Plaintiff herein has not asserted a hostile work environment claim. Rather, she asserts a 1<sup>st</sup> Amendment Retaliation and 14<sup>th</sup> Amendment Equal Protection, based upon her status as a gay female. See, AC. Accordingly, even assuming recommendations for updated whistleblower and Title VII training (undated), such alleged deficiency in training could not as a matter of law have 'actually caused' a constitutional violation, where the recommended training has no relationship to Plaintiff's claims.

Furthermore, as this Court has already noted, "'Usually, 'a pattern of similar constitutional violations by untrained employees is necessary to demonstrate deliberate indifference for purposes of failure to train.' . . . This is because '[w]ithout notice that a course of training is deficient in a particular respect, decisionmakers can hardly be said to have deliberately chosen a training program that will cause violations of constitutional rights.'" *Hargrove v. City of Phila.*, 671 F.

Supp. 3d 595, 606 (E.D. Pa. 2023) (quoting *Thomas v. Cumberland Cnty.*, 749 F.3d 217, 222, 223 (3d Cir. 2014))”. 10/28/25 Memorandum Opinion (ECF 17).

While Plaintiff attempts to create a *pattern* using the hostile work environment investigation recommendation, involving 2 persons in addition to Plaintiff, such attempt fails to support a finding of deliberate indifference by ECT. First, these are not *prior* findings constituting a pattern of similar violations or notice to Defendants. The claims were investigated at the same time; and even assuming this put ECT on notice of deficient training, the training related to areas not involving *Plaintiff’s claimed constitutional violations*.

Therefore, Plaintiff’s Failure to Train claim must be dismissed, with prejudice.

#### **E. Equal Protection Claim Fails**

The Equal Protection Clause of the Fourteenth Amendment provides that no state shall “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV, § 1. To state an equal protection claim, Plaintiff must allege sufficient factual averments to support a reasonable inference that the challenged conduct or action (1) had a ‘discriminatory effect’, and (2) was motivated by a discriminatory purpose. *Carrasca v. Pomeroy*, 313 F.3d 828, 834 (3d Cir 2002). This “is essentially a direction that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburn Living Ctr.*, 473 U.S. 432, 439 (1985). To allege an Equal Protection claim generally, Plaintiff must allege “(1) that [s]he was treated differently from other similarly situated individuals, and (2) that this selective treatment was based on an unjustifiable standard, such as race, or religion, or some other arbitrary factor, . . . or to prevent the exercise of a fundamental right.” *Dique v. N.J. State Police*, 603 F.3d 181, 184 n.5 (3d Cir. 2010) (internal quotation omitted).

Upon direction from the Court, Plaintiff attempted to cure her prior pleading defects by naming other individuals who do not share her protected characteristic (gay) – such as straight officials or employees. Heeding this instruction, Plaintiff now asserts that neither the Chief of Police nor the Financial Administrator, who also filed hostile work environment complaints “did not receive a threatening letter from Eckert Seamans”. (AC ¶125(a,b)). As noted above, Plaintiff has failed to adequately plead the date of any such letters or facts supporting its threatening nature. Even assuming the law firm’s letter issued to Plaintiff was threatening (denied); and assuming the Chief and Financial Administrator did not receive letters (denied), the allegations fail to support any discriminatory effect or that the selective treatment (not receiving letters) was motivated by an intention to discriminate against Plaintiff due to her status as a gay female. (Defendants likewise deny Plaintiff sufficiently averred facts to support the letter she received from counsel in response to her complaint was ‘threatening’.)

She also asserts the prior tax collector (believed to be a straight white male) was provided “adequate equipment” (not a new laptop) and was able to collect all commissions. (AC ¶125(c)). Yet, there are no supporting well-pled facts that this treatment constituted a discriminatory effect or that being provided a refurbished computer was motivated by her status as a gay female.

Finally, Plaintiff appears to be mixing her claims – and instead of basing equal protection allegations upon her status as a gay female, she simply refers to harassment. For example, Defendants’ “harassment of Plaintiff” was open and notorious and Defendants should have been aware of the “harassment”; and that they failed to take reasonable steps to prevent “harassment in the workplace. See, AC ¶¶126, 127, 129, 130. These allegations are not only legal conclusions, but don’t support equal protection claim based upon her status as a gay female. They are more akin to a hostile work environment claim – not subject of this litigation.

Even though Plaintiff alleges that “throughout the course of her tenure” she was subjected to “severe and pervasive harassment by Defendants due to her status as a gay, female”, this is conclusory in nature without any supporting factual allegations. AC ¶123).

Plaintiff appears to rely on an alleged statement by Defendant Mitchell which she ‘discovered’ in 2024, (After any claimed conduct in 2022 or 2023). She asserts this ‘discovery’, without further allegations of when it was said, to whom or where. Only that she ‘discovered’ it. In an effort to solidify the statement, she claims 2 individuals are ‘believed’ to have heard it. Again, without any supportive allegations.

As there are no allegations to support a plausible claim for relief as to Plaintiff’s equal protection claim, this Court must dismiss it, with prejudice.

**F. Conspiracy Claims Fail As Insufficiently Pled And With No Meeting of the Minds of Defendants Mitchell And Ryan (Counts IV And V)**

Defendants assert that Plaintiff has failed to plead a plausible claim for relief as to her 1<sup>st</sup> Amendment Retaliation and/or her Equal Protection Claim. Without any underlying violations, both conspiracy claims fail as a matter of law. To the extent this Court denies dismissal of the underlying claims, Defendants assert as follows.

1. Common Law Conspiracy (Count IV)

A review of the allegations set forth in Count IV reveal nothing more than formulaic conclusions not entitled to be accepted as true for purposes of this motion. See, AC ¶¶132-146. Accordingly, Plaintiff’s common law conspiracy claim fails as a matter of law.

2. §1985 Conspiracy (Count V)

As it relates to a §1985 conspiracy claim, Plaintiff must show (1) the existence of a conspiracy; (2) for the purpose of depriving a person of their civil rights; (3) an act in furtherance of the conspiracy; and (4) an injury to the plaintiff’s person or property or a deprivation of any

right or privilege of a citizen of the United States. *Farber v. City of Paterson*, 440 F.3d 131, 134 (3d Cir. 2006). "[A] bare assertion of conspiracy will not suffice." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). Furthermore, to prevail, Plaintiff must prove that persons acting under color of law reached an understanding to deprive him of constitutional rights. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 150-152 (1970). Only allegations of conspiracy which are particularized, such as those addressing (1) the period of the conspiracy; (2) the object of the conspiracy; and (3) certain actions of the alleged conspirators to achieve that purpose, will be deemed sufficient. *Rose v. Bartle*, 871 F.2d 331, 336 (3d Cir. 1989).

The amended allegations alleging a §1985 conspiracy continue to be conclusory in nature lacking the requisite meeting of the minds as to individual defendants Mitchell and Ryan and ECT. As set forth in the Amended Complaint, Plaintiff alleges "defendants" conspired to deny her rights afforded heterosexual male citizens by "unlawfully retaliating against her and then conspiring to conceal" what occurred. (AC ¶148). In support, Plaintiff alleges the same allegations in support of her equal protection claim (See, AC ¶¶ 125, 149). Again, Plaintiff alleges nothing more than formulaic conclusions of conspiracy without sufficient facts supporting an actual conspiracy or meeting of the minds of the alleged conspirators. For example, Plaintiff alleges "This conspiracy"; "said conspiracy", "the agreement to deprive the Plaintiff of her rights" are used without the persons who conspired, the period of conspiracy, the object of conspiracy or the actions of the alleged conspirators. See, Count V, ¶¶147-159. These conclusory allegations fail to support the elements of a conspiracy or the defendants meeting of the minds.

Nor do the alleged well-pleaded facts of the Amended Complaint support a conspiracy by and between the named Defendants. For example, while Plaintiff alleges former Manager Ryan called Plaintiff the worst tax collector ever and proposed tax collection services be outsourced,

these allegations don't include Defendants Mitchell or ECT. She does allege, again in conclusory fashion:

43. Shortly thereafter, in retaliation for Plaintiff exercising her right to free speech about Defendant Ryan, ECT and Defendants Mitchell and Ryan implemented and acted upon a plan to financially punish Plaintiff for her exercise of free speech.

...

67. In retaliation, Defendants hatched a second plot aimed at economically harming Plaintiff.

AC ¶¶43, 67. Despite the opportunity to cure the defects of the lack of specificity in the initial complaint, these allegations fail to allege sufficient factual allegations to support a plausible claim for §1985 conspiracy.

Conversely, assuming the first allegation refers to outsourcing the tax collection services, ECT formally adopted an ordinance, and its adoption was based upon the Board's vote approving the same. the Board of Supervisors may make and adopt ordinances necessary for the proper management, care and control of a township. Second Class Township Code, 53 P.S. §66506 *General Powers*. As such, Mitchell would be entitled to legislative immunity. *Baraka v. McGreevey*, 481 F.3d, 187 (3<sup>rd</sup> Cir. 2007). (Also see, *Schlegel v. Koteski*, 2007 U.S. Dist. LEXIS 71476 (W.D.Pa. 2007) agreeing that legislative immunity applied to the members setting the terms and conditions for the *position* of Real Estate Tax Collector). Furthermore, as former Manager Ryan does not have a vote – he cannot be held liable for the enactment of an ordinance.

The second 'plot' relates to "Defendants" rolling the hydrant and streetlight taxes in the township's real estate taxes. The proposal was approved by ECT (AC ¶70), likewise entitling Ryan and Mitchell to legislative immunity. Notwithstanding their immunity, these actions fail to constitute a deprivation of constitutional rights.



Finally, other than the Boards legislative actions, there are no specific allegations against Defendant *ECT*. Therefore, all conspiracy claims against all Defendants must be dismissed, as a matter of law.

### **G. Intentional Infliction of Emotional Distress Claim Fails**

To state a claim for intentional infliction of emotional distress, Plaintiff must establish conduct: (1) extreme and outrageous; (2) intentional or reckless; (3) causes emotional distress; and (4) the distress must be severe. *Chuy v. Philadelphia Eagles Football Club*, 595 F.2d 1265, 1273-74 (3d Cir. 1979). “The conduct must be so outrageous in character, and so extreme in degree, it has to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized society.” *Cox v. Keystone Carbon Company*, 861 F.2d 390, 395 (3d Cir.1988). A plaintiff must also allege physical manifestations of the distress. See *Reeves v. Middletown Athletic Ass’n*, 866 A.2d 1115. (Pa.Sup.Ct. 2004). Furthermore, competent medical evidence is necessary to support the alleged emotional distress. *Gray v. Huntzinger*, 147 A.3d 924, 929 (Pa.Super. 2016).

While Plaintiff alleges that she suffers emotional distress and related conditions (AC ¶161) she has not alleged any treatment for the alleged emotional distress, requiring the Court to dismiss this Claim as a matter of law. Alternatively, the claim fails to fall within an exception of the Tort Claims Act, 42 Pa.C.S.A. §8542(b).

### **H. Plaintiff’s Claim for a Violation of the Local Tax Collection Law Fails**

Plaintiff alleges for the first time – as part of the Amended Complaint, (filed on November 17, 2025), an alleged violation of the Pennsylvania Local Tax Collection Law, 72 P.S. §5511.36a (Count VII, ¶¶162-168). Rather than file this claim as a Mandamus Action with the state court in Lancaster County (See, Pa.R.C.P. 1092(c) providing for venue of Mandamus Actions), Plaintiff

includes this as a sperate claim in this federal court litigation. Based upon the allegations, she claims “financial harm” resulting from the adoption of the November 16, 2023 Ordinance during her term as Tax Collector. (AC ¶168). Conversely, even though Plaintiff claims the Ordinance violates the LTCL, she does not seek to invalidate it. See, *Prayer for Relief*. And, while she claims financial harm, she fails to identify any monetary harm. Furthermore, she did not assert a violation of the LTCL in her Response to ECT’s February 2024 Mandamus Lawsuit which resolved in November 2024. It is only now in this Amended Complaint, two years after the adopted ordinance she claims a violation.

Assuming Plaintiff is not deemed to have waived this claim by failing to assert a claim for over 2 years, her damages would be limited considering she was not re-elected as Tax Collector<sup>17</sup>. Therefore, Plaintiff has failed to sufficiently set forth a plausible claim for relief of “financial harm” or violation of the LTCL.

Notwithstanding the above, should this Court again dismiss all federal claims, Defendants request that this Court denies ancillary jurisdiction of this state law claim.

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<sup>17</sup> The statutory provisions of the LTCL, 72 P.S. 5511.1 et seq., fails to provide for a right to sue. But see, e.g. an action against an officer of any government for anything done in execution of office is 6 months, unless another limitation applies. 42 Pa.C.S.A. 5522 (b).

## V. CONCLUSION

For the reasons set forth in Defendants' Motion to Dismiss Plaintiff's Amended Complaint and this supporting Memorandum of Law, all claims against all Defendants must be dismissed, with prejudice.

### BELLWOAR KELLY LLP

By: /s/ Sheryl L. Brown  
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# EXHIBIT A

**EAST COCALICO TOWNSHIP BOARD OF SUPERVISORS  
TOWNSHIP BUILDING  
100 HILL ROAD, DENVER, PA  
THURSDAY, FEBRUARY 20, 2025, 7:00 PM**

**CALL TO ORDER** by Chair Bonura at 6:59 PM.

**ATTENDANCE**

Lorenzo Bonura, Chair	[X]
Jeff Mitchell, Vice Chair	[X]
Daniel Burton, Jr.	[X]

**ANNOUNCEMENTS & INFORMATIONAL ITEMS**

- Mr. Burton led the meeting with a prayer.
- This evening's meeting was recorded for rebroadcast.
- Chair Bonura announced that an Executive Session took place on February 13<sup>th</sup> to discuss the Police Collective Bargaining Agreement.
- Chair Bonura announced that an Executive Session will take place following tonight's meeting on February 20<sup>th</sup> to discuss the Police Collective Bargaining Agreement and next steps regarding the Township Manager position.

**PUBLIC COMMENT, AGENDA ITEMS**

- There was no public comment on agenda items at this evening's meeting.

**ACTION ITEMS**

meeting minutes – Chair Bonura made a motion to approve the February 6, 2025 Meeting minutes, with the addition of the words "a motion" under Police Department Recruitment Process. The motion was seconded by Mr. Mitchell.

By unanimous vote the motion was approved.

Ordinance 2025-01 (Recycling Regulations) – Chair Bonura opened up a public hearing on Ordinance 2025-01, Recycling Regulations. There was no public comment. Chair Bonura made a motion to approve Ordinance 2025-01, Recycling Regulations, as presented. The motion was seconded by Mr. Mitchell.

By unanimous vote the motion was approved.

Resolution 2025-07 (WERT Extension Feasibility Study)- Chair Bonura made a motion to approve Resolution 2025-07, WERT Extension Feasibility Study, as presented. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

Police Department vehicle buy-back and replacement – Mr. Burton made a motion to authorize Lorenzo Bonura, Chairman of the Board of Supervisors and Police Chief Steven Savage to execute all necessary documents to complete the buy-back and replacement of the 2024 Ford F-150-POLICE vehicle that qualifies under the PA Lemon Law. The motion was seconded by Mr. Mitchell.

By unanimous vote the motion was approved.

Collections Agreement – Mr. Burton made a motion to authorize Lorenzo Bonura, Chairman of the Board of Supervisors, to execute a collections agreement with Accounts Advocate Agency, Inc., for the purpose of collecting delinquent street light and hydrant taxes. The motion was seconded by Mr. Mitchell.

By unanimous vote the motion was approved.

Deputy Tax Collector – Chair Bonura made a motion to approve of the appointment of Romao Carrasco to collect and settle taxes during any incapacitation of the Tax Collector of East Cocalico Township. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

Township Solicitor Matt Crème noted that the Township will need to hear from surety that Mr. Carrasco has been added to the bond.

resignation – Township Manager – Chair Bonura made a motion to accept the resignation of Tommy Ryan from the position of Township Manager for East Cocalico Township, effective March 16, 2025. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

interfund transfers, bill lists & payroll – Mr. Mitchell made a motion to approve check payments for the General Fund Bank Account list of bills in the amounts of \$40,847.37 for the week of February 7, \$29,818.11 for the week of February 14, and \$7,594.83 also for the week of February 14<sup>th</sup>. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

Mr. Mitchell made a motion to approve check payments for the Street Light Fund list of bills in the amount of \$15,089.96 for the week of February 14. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

Mr. Mitchell made a motion to approve check payments for the Developers Fund list of bills in the amount of \$5,457.85 for the week of February 7. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

Mr. Mitchell made a motion to approve the Electronic Payment list of bills in the amount of \$95,666.59 for the pay period from January 26 to February 8. The motion was seconded by Mr. Burton.

By unanimous vote the motion was approved.

## **DEPARTMENT REPORTS**

Police – Chief Savage commented on certain calls received and Department activities for the prior month. A written report of call activity for East Cocalico Township and Denver Borough for January was provided.

Finance – A written report of receipts and expenditures for Township funds through January 2025 was provided.

Public Works – A written report of roads, bridge, parks, and equipment maintenance activities for January 2025 was provided.

Building, Zoning & SEO – A written report of permits issued, applications considered by the Zoning Hearing Board, and sewage enforcement activities for January 2025 was provided.

## **NEW BUSINESS**

- Mr. Mitchell noted that he was contacted by a resident to discuss farmland preservation.

## **OLD BUSINESS**

- There was no old business discussed at this evening's meeting.

## **PUBLIC COMMENT, NON-AGENDA ITEMS**

- Ken McCrea commented on the Township's website's meeting calendar.
- Donny Stover commented on announcements from the Fire Company.
- Michelle Zimmerman commented on the intersection between Reamstown Road and Bunker Hill, and on locating land developments on the Township website.
- Jason Weiman commented on the Warwick to Ephrata Rail Trail Extension Feasibility Study.
- Lori Zimmerman commented on the Warwick to Ephrata Rail Trail Extension Feasibility Study.

## **ANNOUNCEMENTS**

- Chair Bonura announced that a PennDOT consultant working for the Local Technical Assistant Program conducted a study of the Smokestown Road/Hill Road intersection and concluded that it does not warrant additional stop signs.
- Chair Bonura announced that next Board of Supervisors Meeting will be conducted on Thursday, March 6<sup>th</sup>, at 7:00pm at the Township Building.

## **ADJOURNMENT**

There being no further business, at 7:46 PM, Chair Bonura made a motion to adjourn the meeting. The motion was seconded by Mr. Mitchell.

By unanimous vote the motion was approved.

Respectfully Submitted:

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Melody Stout  
Assistant Township Manager



# **EXHIBIT B**

EAST COCALICO TOWNSHIP.,

V.

*Defendant.*

No. 24 - 01151

Civil Action – Mandamus

## COMPLAINT IN MANDAMUS

East Cocalico Township (the “Township”) hereby files this Complaint in Mandamus against Jill Cordan, the elected Tax Collector for East Cocalico Township (“Ms. Cordan” or the “Collector”), requesting that this Court Order Ms. Cordan to perform her ministerial duties to (1) collect the Local Services Taxes for East Cocalico Township (the “Tax”) from the fourth (4<sup>th</sup>) quarter of 2023; (2) provide all documents utilized in collecting those Taxes to the Lancaster County Tax Collection Bureau (the “Bureau”) for all further collection of such Taxes

2/16/24 \$180.50  
check # 078010  
R# 176322

pursuant to Ordinance 2023-06 which was enacted by the Township on November 16, 2023; (3) collect the Local and County real estate and other local taxes levied by the Township; and (4) communicate with the Township through its appointed Township manager in a regular, usual, and customary fashion, including but not limited to responding to communication from the manager, to provide the required information to the County and Township to assure proper and financial bonding for her duties, to respond to taxpayer inquiries in a timely fashion, to refrain from using person not approved as deputy tax collector in the performance of her statutory duties, to provide all required information for the preparation and mailing of the County and Township tax bill for Spring 2024 and in support thereof avers the following:

## **II. JURISDICTION AND VENUE**

1. This Court has jurisdiction to hear this matter under 42 Pa.C.S. §931(a) providing for original jurisdiction of the Court of Common Pleas, and Pennsylvania Rules of Civil Procedure 1093 and 1095.

2. Venue is proper in Lancaster County as this is the County in which East Cocalico Township is located. Ms. Cordan is a fiduciary agent for the Township. Any and all actions that have been taken, or have failed to be taken, have occurred, or were supposed to occur within Lancaster County.

## **III. PARTIES**

3. Plaintiff is East Cocalico Township, a second-class township in Lancaster County, with an address of 100 Hill Road, Denver, PA 17517.

4. Defendant is Jill Cordan, the elected Tax Collector for the Township. As the elected Tax Collector, Ms. Cordan is a fiduciary agent of the Township in an elected role and is an independent elected official who is not part of the Township Government. In her role as the

elected Tax Collector, her address is the same as the Township: 100 Hill Road, Denver, PA 17517. The Township believes that her residential address is 17 Grouse Drive, Denver, PA 17517.

#### IV. FACTUAL BACKGROUND

5. Jill Cordan was elected as the Tax Collector for East Cocalico Township and serves in that capacity for the 2023 and 2024 fiscal years. As Tax Collector, she maintained the responsibility to collect the Local Services Tax which is owed to the Township for 2023, and the local and county real estate and other local taxes levied by the Township for 2024 and thereafter. *See* the Local Tax Collection Law, 72 Pa. Stat. §5511, *et seq.* and the Second-Class Township Code 53 Pa. Stat §65101, *et seq.*

6. On October 20, 2023, Ms. Cordan sent a letter to the Board of Supervisors for the Township, which notified the Board that Ms. Cordan refused to have any further interaction or communication with Tommy Ryan, the Manager for East Cocalico Township (“Manager”). Despite indicating that she intended to continue to “professionally perform the Tax Collector’s duties and responsibilities to serve Township residents,” the Township has seen no such effort from Ms. Cordan. (A true and correct copy of the letter is attached hereto as Exhibit A).

7. Ms. Cordan has failed in numerous ways to meet her obligations as elected Tax Collector for the Township. Among others, she has refused to provide the information required for her to be properly bonded for County tax collection.

8. Section 22 of the Local Tax Collection Law provides a tax collector with the authority to appoint a deputy tax collector **with the approval of a taxing district**. Ms. Cordan has not received approval from the Township for appointment of the deputy tax collector and refuses to comply with this law.

9. By way of example, Ms. Cordan's mailbox, which is used to receive time-sensitive documents pertaining to her position as elected Tax Collector, is so full of mail at times that nothing additional can be placed inside. Ms. Cordan also neglects frequently to respond to Township resident inquiries in a timely fashion.

10. By way of further example, Ms. Cordan has not responded to the Township Manager's request for information needed to process and mail the 2024 tax bill which was initially sent to her in December 2023. The Manager followed up with Ms. Cordan on January 29, 2024 after not receiving any response, and again on February 1, 2024. Despite the Manager's repeated request for such important time-sensitive material and action, Ms. Cordan has not responded.

11. On November 16, 2023, the Township adopted Ordinance 2023-06, which designated the Bureau as the collector of the Tax, effective January 1, 2024. The authority for the ordinance comes from Act 511 of 1965, as amended, known as the Local Tax Enabling Act, 53 P.S. § 6924.101 *et seq* (the "Enabling Act").

12. The Township has attempted to work with Ms. Cordan by requesting that she engage in her ministerial duty and collect the Tax for the fourth (4<sup>th</sup>) quarter of 2023, but Ms. Cordan has refused to respond to such requests.

13. On January 3, 2024, the Township Solicitor sent a letter to Ms. Cordan specifically asking if she would collect the Taxes and turn over the required information to the Bureau. The letter warned of potential litigation if Ms. Cordan refused to cooperate and meet her ministerial duty and responsibilities. (A true and correct copy of the letter is attached hereto as Exhibit B).

14. As of the date of this filing, the Township believes and avers that Ms. Cordan has failed to collect the Tax for the Township for the fourth (4<sup>th</sup>) quarter of 2023. Further, she has

failed and refused to provide the required information in her possession regarding such taxes to the Bureau to ensure that they can appropriately collect such Tax moving forward.

15. Further, the Township fears and avers that Ms. Cordan will refuse and fail to perform her duties in the collection of local and county taxes for 2024 as described above.

#### COUNT I - MANDAMUS

16. A writ of mandamus compels the performance of a mandatory and ministerial duty by the government or a governmental official where a plaintiff has a “clear legal right.” *Capinski v. Upper Pottsgrove Twp.*, 164 A.3d 601, 606 (Pa. Commw. Ct. 2017). An action in mandamus is guided by equitable principles. *Germantown Business Ass’n v. City of Philadelphia*, 534 A.2d 553, 555 (Pa. Commw. Ct. 1987) (citing *City of Pittsburgh v. Pennsylvania Dep’t of Transportation*, 416 A.2d 461 (Pa. 1980)).

17. There are three elements to establish a claim for mandamus: (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 at law. *Wilson v. Pa. Bd. of Prob. & Parole*, 942 A.2d 270, 272 (Pa. Commw. Ct. 2008)).

18. Mandamus is available to compel a public official to perform the required acts of the office which do not involve an exercise of discretion or judgment. *Chadwick v. Dauphin County Office*, 905 A.2d 600, 603 (Pa. Commw. Ct. 2006) (citing *18 STANDARD PENNSYLVANIA PRACTICE 2D § 99:18 (2005)*). “[W]here by a mistaken view of the law or by an arbitrary exercise of authority there has been in fact no actual exercise of discretion, the writ will lie.” *Id* (citing *Tanenbaum v. D’Ascenzo*, 51 A.2d 757 (Pa. 1947)).

19. Because an elected Tax Collector has a statutory duty to collect the taxes imposed by the Local Tax Enabling Act and Second-Class Township Code, a writ of mandamus is the

proper remedy to enforce collection. *See Borger v. Pleasant Valley School Dist.*, 551 A.2d 648, 650 (Pa. Commw. Ct. 1988); *See also Plum Borough School Dist. v. Schlegel*, 855 A.2d 939 (Pa. Commw. Ct. 2004).

20. Ms. Cordan's duty to collect the taxes is not discretionary; her duty is to ensure the taxes imposed by the Township are timely collected and provided to the Township and to provide information related to the collection of taxes to the Township and County on a timely basis.

21. Section 301.1 of the Enabling Act provides that those authorities of a second-class township, "in their discretion, by ordinance or resolution, for general revenue purposes, [may] levy, assess and collect or provide for the levying, assessment and collection of such taxes as they shall determine in persons, transactions, occupations, privileges, subjects and personal property within the limits of such political subdivisions."<sup>1</sup>

22. Section 313 of the Enabling Act provides that any political subdivision is authorized, by ordinance or resolution, to create or designate tax bureaus for the assessment and collection of taxes imposed under the Enabling Act, such as the Local Services Tax which is at issue.

23. The Second-Class Township Code provides that the Tax Collector "shall collect all county, township, school, and other taxes levied within the townships by authorities authorized to levy taxes. "The tax collector may also be designated in the tax-levying ordinance or resolution or be employed by the tax-levying authority to collect taxes levied under . . . 'The Local Tax Enabling Act.'" 53 P.S. §6924, *et. seq.*

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<sup>1</sup> The Local Services Tax which the Township has imposed is pursuant to the Local Tax Enabling Act.

24. “A political subdivision may provide for someone other than the tax collector to collect the taxes,” *but it is not required to*. *Borger* at 650 (holding that nothing in the Local Tax Enabling Act mandates an alternative appointment other than the elected tax collector). While the Township has made such a separate appointment as of January 1, 2024, the taxes at issue are from 2023, during which Ms. Cordan, as the Tax Collector for the Township, had the mandatory and ministerial duty to collect such local taxes.

25. In addition to Ms. Cordan’s refusal to collect the fourth (4<sup>th</sup>) quarter Tax for 2023, Ms. Cordan is refusing to provide the required records to the Bureau.

26. Pursuant to §4.3(d) of the Local Tax Collection Law (the “Collection Law”), “no person who formerly held the office of tax collector shall intentionally and unlawfully deny legal custody or otherwise impair the availability of tax collection records by refusing to transfer possession of the records to a taxing district or its tax collector.”

27. For purposes of the aforementioned law, the term “tax collection records” includes “records to which access is required by a tax collector in order to carry out the duties under this act and which are among the categories of tax collection records that are to be maintained in conformity with disposition and retention schedules and regulations that are promulgated by the Local Government Records Committee.”

28. Therefore, under Pennsylvania law, a complaint in mandamus is the appropriate mechanism to enforce the Tax Collector to engage in and complete their duties as such an elected position. The Township meets the three (3) required elements.

29. The first element that must be met for a mandamus action is that there is a clear legal right to the relief sought. As a second-class township with the authority to tax, the Township has a clear legal right to relief so that it may actually receive the taxes owed by



residents within the political subdivision. The Township is not permitted to simply collect the tax on its own, and it must seek relief by way of this Court to obtain what it is owed.

30. The second element that must be met for a mandamus action is that there is a corresponding duty in the respondent. As the elected Tax Collector for the Township, Ms. Cordan has the duty to collect the taxes and to provide any relevant information to the Lancaster County Tax Bureau as the new appointed collector for the Local Services Tax. Ms. Cordan's duties are clearly defined in the Local Tax Collection Law and the Second-Class Township Code.

31. The third element that must be met for a mandamus action is that there is no other adequate and appropriate remedy at law. The relief which the Township seeks is the collection of the Taxes, and transition of all applicable documents to the Bureau for further collection. While petitioning for impeachment could ultimately result in a removal of Ms. Cordan's position, such removal does not provide the relief sought, and would likely frustrate the goal of collection.

32. The Township has a right to the collection of the Tax, which Ms. Cordan has the duty both to collect the taxes and pass off any required information to the Bureau, and a mandamus action is the only avenue the Township can take to mandate that Ms. Cordan complete her duties and responsibility as Tax Collector for the Township. Thus, the Township's request for a mandamus to enforce the collection of its Local Services Tax should be granted.

## COUNT II - EQUITY

33. Paragraphs 1 through 32 are hereby incorporated by reference as though fully set forth at length herein.

34. In the alternative, if the court finds that mandamus is not the proper remedy, the Court should be guided further by the principles of equity and order a mandatory injunction which compels Ms. Cordan to collect the fourth quarter Local Services Tax for 2023 and to provide any information used to collect such Tax to the Bureau for their future collection of the Tax.

35. “An injunction is a court order that can prohibit or command virtually any type of action.” *Big Bass Lake Community Ass’n v. Warren*, 950 A.2d 1137, 1144 (Pa. Commw. Ct. 2008). A mandatory injunction commands the performance of an affirmative act. *Id.* at 1145.

36. To obtain an injunction there must be proof that (1) there is a clear right to relief; (2) there is an urgent necessity to avoid an injury; and (3) a finding that greater injury/irreparable harm will result from refusing the injunctive relief requested. *Id.* at 1144.

37. Township has enacted the Tax pursuant to its rights under Pennsylvania law, which explicitly provides the Township with the authority to collect the Tax. The Township has a clear right to those taxes, but is without the authority to simply collect the Tax itself. As such, the Township has a clear right to relief so that it can obtain the Taxes which it is owed

38. There is an urgent necessity for the Township to receive the Taxes. The Taxes were from the fourth (4<sup>th</sup>) quarter of 2023 and we are now in a new fiscal year. The Township cannot meet all of its municipal duties without enough funds, many which come directly from the numerous taxes which are imposed by the Township. Additionally, the Bureau needs the

applicable documents utilized to collect such Taxes so that it can begin the process for 2024 and ensure the Township continues to receive such Tax from its residents in a timely manner.

39. Township has suffered, and will continue to suffer from irreparable harm if Ms. Cordan is not forced to complete her duties as the elected Tax Collector for the Township and collect the Tax on behalf of the Township. Township is entitled significant monies from the Taxes imposed and cannot sustain meeting its budget without receipt of those funds. If the Township cannot sustain its budget, it will have to make cuts and sacrifice other municipal services to make up for the monetary loss. Finally, the Township has lost significant compounding interest it would earn from depositing the Tax monies into its bank account.

40. If Ms. Cordan is not required to meet her duty and collect the Taxes on behalf of the Township, the Township will suffer damages which can only be rectified by the collection of such Taxes.

#### **V. REQUESTED RELIEF**

WHEREFORE, East Cocalico Township respectfully requests that this Honorable Court enter an Order providing the following relief:

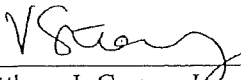
1. Direct Jill Cordan as the 2023 Tax Collector for East Cocalico Township to collect the Local Services Tax for the fourth (4<sup>th</sup>) quarter of 2023.
2. Direct Jill Cordan as the 2023 Tax Collector for East Cocalico Township to provide all information in her possession used to collect the Local Services Tax to the Lancaster County Tax Bureau for all future collection of the Tax.
3. Direct Jill Cordan, as the elected 2024 Tax Collector for East Cocalico Township, to collect the Local and County real estate and other local taxes levied by the Township for the fiscal year of 2024.

4. Direct Jill Cordan to communicate with the Township through its appointed Township manager in a regular, usual, and customary manner.
5. Direct Jill Cordan to provide the required information to the County and Township to assure proper and financial bonding for her duties.
6. Direct Jill Cordan to respond to taxpayer inquiries in a timely fashion.
7. Direct Jill Cordan to refrain from using person not approved as deputy tax collector in the performance of her statutory duties.
8. Direct Jill Cordan to provide all required information for the preparation and mailing of the County and Township tax bill for Spring 2024.
9. Order any further relief that this Court deems appropriate.

I certify that this filing complies with the provision of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,  
Nikolaus & Hohenadel, LLP

Date: 2-16-24

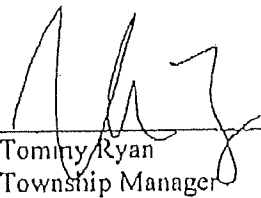
By:   
Matthew J. Creme, Jr.  
Attorney I.D.: 32141  
Victoria K. Storz  
Attorney I.D.: 330407  
Brandon P. Lee  
Attorney I.D.: 331734  
212 North Queen Street  
Lancaster, PA 17603  
(717) 299-3726

VERIFICATION

I, Tommy Ryan, hereby verify that the facts set forth in the foregoing Complaint in Mandamus are true and correct to the best of my knowledge, information and belief. I acknowledge that had I knowingly made false statements in this document, I would be subject to the penalties of a misdemeanor of the third class pursuant to of 18 Pa. C.S.A. Section 4904, regarding unsworn falsification to authorities.

Date: 2/8/24

EAST COCALICO TOWNSHIP

  
\_\_\_\_\_  
Tommy Ryan  
Township Manager

24 - 01151

EXHIBIT A

## East Cocalico Township Tax Collector

100 Hill Road, Denver, PA 17517

Phone: (717) 336-1721

Email: [taxcollector@town](mailto:taxcollector@town)

Website: [ect.town](http://ect.town)

October 20, 2023

East Cocalico Township Board of Supervisors  
East Cocalico Township  
100 Hill Road  
Denver, PA 17517

RE: Change of Contact with Tax Collector's office

Dear Board of Supervisors:

As the elected Tax Collector of East Cocalico Township (Township), I am notifying the Board of Supervisors that effective immediately the Tax Collector office will no longer communicate or have any interaction with the current Township Manager Tommy Ryan.

I have and will continue to professionally perform the Tax Collector's duties and responsibilities to serve Township residents, Township, and County.

The Township Manager's comments during the public Board of Supervisors meeting of October 5, 2023, was the culmination of unprofessional and disrespectful behavior and comments.

As an elected official and as a credentialed professional in the private sector, his behavior and comments reflect poorly on the Township while more significantly, impacting me.

This behavior interferes with the tax collection responsibilities. The Township Manager has several open items pertaining to the Tax Collector's office which remain unaddressed. These items impact this office, the County, and the residents of ECT, while also having the potential for legal ramifications.

I am requesting Chairman Bonura read this letter in its entirety at the next Board of Supervisors meeting. Please advise if the letter won't be read, as I will attend the following meeting to read the letter personally.

Sincerely,

Tax Collector, Jill Cordan

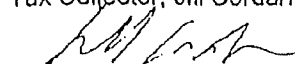
  
Via: Hand delivery to Township offices  
Regular mail

EXHIBIT B



NIKOLAUS & HOHENADEL, LLP  
ATTORNEYS AT LAW

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QUARRYVILLE, PA 17566  
717/786-4044  
FAX 717/786-1524

January 3, 2024

The Honorable Jill Cordan  
East Cocalico Tax Collector  
100 Hill Road  
Denver, PA 17517

Dear Ms. Cordan:

I and the two of the three East Cocalico Township Supervisors addressed in your enclosed email of yesterday afternoon received the email and shared it with the third Supervisor and the Township Manager. The Sunshine Law precluded consideration of your request last evening because it came within 24 hours of the Board's meeting and the agenda of the meeting had been posted publicly. The ability to amend a posted agenda is severely constrained by the Sunshine Law and recent appellate case law and your request is one that may be addressed by the Board only in a public meeting, subject to public notice.

The Board will place your request on its next scheduled meeting's agenda, which will be on January 18, 2024 at 7:00 pm at the Township Office. Please plan on attending to present your request to the Board and respond to any questions the Board or the public may have.

However, and in addition to the above, the Board has some questions that require your immediate response.

Firstly, will you provide the Lancaster County Tax Collection Bureau with the requested information about the Local Services Tax which is required for 2024 invoicing? This request has been made to you several times in the past few weeks without response or action by you.

Secondly, are you able and willing, faithfully to perform all of your duties as the elected tax collector for East Cocalico Township, now in this new year of 2024 and in the remainder of your term?

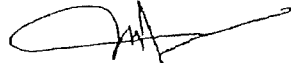
The Honorable Jill Cordan  
East Cocalico Tax Collector  
January 3, 2024  
Page 2

Your immediate response to these two questions is requested and required.

The deficiencies in the performance of your duties to date places the Township in an untenable situation. The recourse available to the Township is limited to filing a lawsuit to compel the performance of your duties and to making a claim on your sureties for indemnification of the Township's both real and potential financial losses. Alternatively, with your consent and cooperation, the Township may step in to obtain and provide services to help you, or substitute for you, to accomplish your duly required services as tax collector.

Please respond to me immediately upon your consideration of this letter and its request for information, no later than the morning of January 4, 2024.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew A. Creme, Jr.", written over a horizontal line.

Matthew A. Creme, Jr.  
Township Solicitor

CC: East Cocalico Board of Supervisors

**Matthew J. Creme, Jr.**

---

**From:** Tax Collector <TaxCollector@ect.town>  
**Sent:** Tuesday, January 2, 2024 2:34 PM  
**To:** Lorenzo Bonura; Jeffrey Mitchell; Matthew J. Creme, Jr.  
**Subject:** Tax Collector - Non Certified Checks Received After Deadline

**Importance:** High

Hello,

Per Code, Tax Collector is not required to accept any non certified/non official checks after December 15. Reasoning is returned checks could occur after year end settlement and if this occurs, Tax Collector is liable for these funds. As I will not assume this responsibility, the Tax Collector office is asking IF these checks are processed AND subsequently are returned, will the Township reimburse the Tax Collector bank account? Customerily, the Township does reimburse the Tax Collector. Please note Township is NOT required to do this. As Tax Collector and Township both strive to serve its residents with best practices, the Tax Collector office is requesting this.

If the Township, for whatever reason, does not want to assume this liability, Tax Collector's office completely understands. These checks will be returned unprocessed to the residents and consequently over to Lancaster County Tax Claim Bureau as uncollected. Currently, these checks total approximately \$8,600. This amount could increase as post office stamp date dictates timely receipt. If Township assumes this liability, Tax Collector office will provide Township with a detailed check listing. For tax year 2023, there were 2 returned checks, in which both have been collected.

As this is very time sensitive, please respond by noon tomorrow, Wednesday January 3, 2024. Late payment volume is considerably high and therefore a request was not anticipated.

Thank you for your consideration.

East Cocalico Tax Collector  
Jill Cordan  
100 Hill Road  
Denver, PA 17517  
717.336.1721