

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

RICKKIA SCOTT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	C.A. No. N26C-02-369 SPL
CAESAR RODNEY SCHOOL	)	
DISTRICT, DAVID E. ROBINSON	)	
ELEMENTARY SCHOOL, and	)	
DELAWARE DEPARTMENT OF	)	
EDUCATION,	)	
	)	
Defendants.	)	

Submitted: May 18, 2026
Decided: August 17, 2026

*Upon Defendants' Motion to
Dismiss Plaintiff's Complaint,*
DENIED.

ORDER

Upon consideration of Defendants' Motion to Dismiss Plaintiff's Complaint,¹
Plaintiff's opposition,² the parties' arguments,³ and the record in this matter, it
appears to the Court that:

¹ D.I. 10 ("Mot. Dism").

² D.I. 11 ("Resp.").

³ D.I. 12.

BACKGROUND

1. On November 17, 2025, seven-year-old S.H., a student at David E. Robinson Elementary School (“Robinson Elementary”), returned to the school building after recess.⁴ As S.H. entered the building, another student “slammed the door while S.H.’s pinky was in the door, causing injury.”⁵ Employees of Robinson Elementary reported the incident to S.H.’s mother, Rickkia Scott.⁶ S.H. sustained a “nailbed laceration requiring stitches,”⁷ and “a broken pinky finger.”⁸

2. Scott,⁹ on behalf of S.H., filed a complaint asserting a claim of negligence against all defendants.¹⁰ Scott contends, “Defendants and/or their agents knew, or should have known, that small children must be supervised around conditions that could pose a hazard to themselves or other children, such as when

⁴ D.I. 1 (“Compl.”) ¶¶ 7, 8.

⁵ *Id.* at ¶ 8.

⁶ *Id.* at ¶ 9.

⁷ *Id.* at ¶ 10.

⁸ *Id.* at ¶ 22.

⁹ The Court appointed Rickkia Scott as “next friend of Plaintiff S.H. for the purposes of prosecuting this action against the Defendants.” D.I. 2.

¹⁰ *See* Compl. Defendants include the Caesar Rodney School District, David E. Robinson Elementary School, Delaware Department of Education, and the State of Delaware. The parties agreed to dismiss the State of Delaware from the case. D.I. 13.

closing a door that can be closed rapidly and with great force.”¹¹ She continues that “[i]n spite of this, Defendants and their agents failed to supervise students.”¹² Scott summarizes her allegations:

The Defendants were grossly, willfully and wantonly negligent and/or negligent or reckless individually and/or by and through their agents in that [they]:

- (a) Failed to properly and reasonably supervise the minor Plaintiff, S.H.;
- (b) Failed to provide the minor Plaintiff, S.H. with an environment free of dangerous hazards;
- (c) Hired incompetent and improperly trained staff;
- (d) Failed to keep minor student S.H. safe while in the custody and control of Robinson Elementary; and
- (e) Failed to otherwise exercise reasonable care as will be revealed through discovery.¹³

3. Defendants filed a Motion to Dismiss Plaintiff’s Complaint in which they assert Scott’s complaint fails to state a claim upon which relief can be granted.¹⁴ Specifically, Defendants contend they are “immune from suit pursuant to the Delaware State Tort Claims Act, 10 *Del. C.* § 4001 (“STCA”).”¹⁵ Scott responds that Defendants’ STCA argument “fails muster” and encourages the Court to deny

¹¹ Comp. ¶ 19.

¹² *Id.* at ¶ 20.

¹³ *Id.* at ¶ 24.

¹⁴ Mot. Dism. ¶ 1.

¹⁵ *Id.* at ¶ 3.

the Motion to Dismiss.¹⁶ At this stage, drawing all reasonable inferences in favor of Scott, the Court denies Defendants' motion.

LEGAL STANDARD

4. On a motion to dismiss for failure to state a claim upon which relief can be granted under Superior Court Civil Rule 12(b)(6), all well-pleaded allegations in the complaint must be accepted as true.¹⁷ Even vague allegations are considered well-pleaded if they give the opposing party notice of a claim.¹⁸ The Court must draw all reasonable inferences in favor of the non-moving party;¹⁹ but the Court will not “accept conclusory allegations unsupported by specific facts,” nor will it “draw unreasonable inferences in favor of the non-moving party.”²⁰ “The governing pleading standard in Delaware to survive a motion to dismiss is reasonable ‘conceivability.’”²¹ Dismissal is not appropriate unless the “plaintiff would not be

¹⁶ Resp. ¶ 12.

¹⁷ *Spence v. Funk*, 396 A.2d 967, 968 (Del. 1978).

¹⁸ *In re Gen. Motors (Hughes) S'holder Litig.*, 897 A.2d 162, 168 (Del. 2006) (quoting *Savor, Inc. v. FMR Corp.*, 812 A.2d 894, 896–97 (Del. 2002)).

¹⁹ *Id.*

²⁰ *Price v. E.I. DuPont de Nemours & Co.*, 26 A.3d 162, 166 (Del. 2011) (internal citations omitted).

²¹ *Cent. Mortg. Co. v. Morgan Stanley Mortg. Cap. Holdings, LLC*, 27 A.3d 531, 537 (Del. 2011) (cleaned up).

entitled to recover under any reasonably conceivable set of circumstances susceptible of proof.”²²

5. Superior Court Civil Rule 9(b) requires, in a negligence claim, “the circumstances constituting . . . negligence . . . shall be stated with particularity.”²³ “The purpose of the rule is to apprise the adversary of the acts or omissions by which it alleged that a duty has been violated.”²⁴ “While the rule does not require exactitude, the allegations must include the time, place, contents of the alleged negligence, as well as the individual accuse of committing the negligence.”²⁵

ANALYSIS

6. Defendants contend the Delaware State Tort Claims Act provides them “immunity from tort claims resulting from their own negligent acts or omissions, unless such immunity is expressly waived by statute.”²⁶ They assert, because Scott has not “[pled] any Legislative Act constituting a waiver of Defendants’ immunity,” Scott must allege facts “demonstrating either (i) a ministerial act; (ii) bad faith; or

²² *Windsor I, LLC v. CWCapital Asset Mgmt. LLC*, 238 A.3d 863, 871–72 (Del. 2020) (citation omitted).

²³ Super. Ct. Civ. R. 9(b); *Louden v. Archer-Daniels-Midland Co.*, 700 A.2d 135, 140 n.7 (Del. 1997) (“Superior Court Civil Rule 9(b) requires also that negligence be stated with particularity.”)

²⁴ *Trammell v. Ingram*, 2026 WL 2047178, at *2 (Del. Super. Ct. July 14, 2026) (cleaned up).

²⁵ *Id.*

²⁶ Mot. Dism. ¶ 6.

(iii) that the action was done with gross or wanton negligence,”²⁷ and that she fails to do so. Scott, of course, disagrees and asserts that her “allegations of negligence are well-pled,”²⁸ that she alleges a ministerial act,²⁹ and that her complaint “unambiguously alleges gross negligence.”³⁰ Scott has withdrawn her allegations of negligent hiring and training.³¹

The Delaware State Tort Claims Act

7. Delaware’s State Tort Claims Act (“STCA”) “exempts State employees from civil liability for acts or omissions taken in their capacity as such.”³² The Delaware Supreme Court has explained:

Under the STCA, no claim or cause of action shall arise, and no judgment, damages shall be awarded against a public officer or employee” where the official's actions were: (1) discretionary; (2) undertaken in good faith and in the belief that the public interest would best be served thereby; and (3) undertaken without gross or wanton negligence. The plaintiff bears the burden of proving the absence of one or more of the elements of immunity in a suit against a state employee for damages.³³

²⁷ *Id.*

²⁸ Resp. ¶ 4.

²⁹ *Id.* at ¶¶ 5-7.

³⁰ *Id.* at ¶ 8.

³¹ *Id.* at ¶ 10.

³² *In re COVID-Related Restrictions on Religious Services*, 326 A.3d 626, 646 (Del. 2024) (cleaned up) (quoting *Jackson v. Minner*, 2013 WL 871784, at *5 (Del. Super. Ct. Mar. 1, 2013)).

³³ *Id.* (quoting 10 Del. C. § 4001).

“[T]he various school districts, and their officers and employees [are] entitled to the same privileges and immunities provided” in the State Tort Claims Act.³⁴

A. Ministerial v. Discretionary Acts

8. “The determination of whether an act is discretionary or ministerial is a question of law.”³⁵ Ministerial acts are “those which a person performs in a prescribed manner without regard to his own judgment concerning the act to be done.”³⁶ Discretionary acts are “those which require some determination or implementation which allows a choice of methods, or, differently stated, those where there is no hard and fast rule to a course of conduct.”³⁷ The duty to supervise students is ministerial;³⁸ however, “the manner and particular methods of supervision are discretionary.”³⁹

³⁴ 10 *Del. C.* § 4003.

³⁵ *Gutierrez v. Advanced Student Transportation, Inc.*, 2015 WL 4460342, at *4 (Del. Super. Ct. July 14, 2015) (citing *Hughes ex rel. Hughes v. Christina Sch. Dist.*, 2008 WL 73710, at *3 (Del. Super. Ct. Jan. 7, 2008)).

³⁶ *Simms v. Christina Sch. Dist.*, 2004 WL 344015, at *8 (Del. Super. Ct. Jan. 30, 2004) (citing *Scarborough v. Alexis I. DuPont High Sch.*, 1986 WL 10507, at *6 (Del. Super. Ct. Sept. 17, 1986)).

³⁷ *Id.*

³⁸ *Gutierrez*, 2015 WL 4460342, at *4 (citing *Jester v. Seaford Sch. Dist.*, 1991 WL 269899, at *4 (Del. Super. Ct. Nov. 4, 1991); *Tews v. Cape Henlopen Sch. Dist.*, 2013 WL 1087580, at *4 (Del. Super. Ct. Feb. 14, 2014)).

³⁹ *Sadler-levoli v. Sutton Bus & Truck Co., Inc.*, 2013 WL 3010719, at *2 (Del. Super. Ct. June 4, 2013).

9. The parties agree “[i]t is well-established under Delaware law that the duty to supervise student activities is ministerial.”⁴⁰ Similarly, there is little disagreement that a discretionary act – such as the method of supervision – would invoke STCA immunity. Defendants assert Scott does “not allege that Plaintiff S.H. was *unsupervised*, rather the Complaint takes issue with the *method* of supervision.”⁴¹ Scott, though, contends that the “plain language” of her complaint, that “Defendants and their agents failed to supervise students,” alleges a “failure to supervise *altogether*.”⁴² She contends that this is an “unambiguous pleading of a *complete failure to supervise*.”⁴³

10. The Court, as it must, reads the complaint drawing all reasonable inferences in favor of the non-moving party.⁴⁴ The complaint may be read to allege an absence of supervision.

B. Good Faith

11. Defendants argue that the Complaint does not allege a lack of good faith and that any amendment would be futile because “there are no facts to support lack

⁴⁰ Resp. ¶ 6; quoting Mot. Dism. ¶ 9.

⁴¹ Mot. Dism. ¶ 9 (emphasis in original).

⁴² Resp. ¶ 6, quoting Compl. ¶ 20 (emphasis in original).

⁴³ *Id.* at ¶ 7 (emphasis in original).

⁴⁴ *In re Gen. Motors*, 897 A.2d at 168.

of good faith.”⁴⁵ Scott does not respond to this point. In the absence of an allegation in the complaint, the Court concludes Defendant’s conduct was undertaken “in good faith and in the belief that the public interest would best be served thereby.”⁴⁶

C. Gross Negligence

12. Defendants argue that the Complaint does not plead facts supporting gross negligence.⁴⁷ Scott responds that the “Complaint clearly and repeatedly alleges gross negligence as well as wanton negligence.”⁴⁸

13. This Court has explained:

Gross negligence is an extreme departure from the ordinary standard of care. Wanton negligence is conduct that is so unreasonable and dangerous that a person knows or should know that an imminent likelihood of harm can result. Wanton conduct is beyond gross negligence, and is evidenced by conscious indifference and an “I don’t care” attitude.⁴⁹

14. Scott alleges that Defendants’ failure to supervise students was the product of “negligence, carelessness, recklessness, willfulness, gross negligence, and/or wantonness of Defendants and/or their agents, servants, or employees”⁵⁰ and

⁴⁵ Mot. Dism. ¶ 10.

⁴⁶ 10 *Del. C.* § 4001(3).

⁴⁷ Mot. Dism. ¶ 11.

⁴⁸ Resp. ¶ 8.

⁴⁹ *Sadler-levoli*, 2013 WL 3010719, at *4 (internal citations omitted).

⁵⁰ Compl. ¶¶ 20-21.

that this negligence resulted in injury to S.H.⁵¹ Scott contends that “Defendants and/or their agents knew, or should have known, that small children must be supervised around conditions that could pose a hazard to themselves or other children, such as when using a door that can be closed rapidly and with great force.”⁵² Again, accepting all reasonable inferences in a light most favorable to Scott, the complaint may be read to allege the complete absence of supervision of young children in an area fraught with danger and, thus, an “I don’t care attitude.”

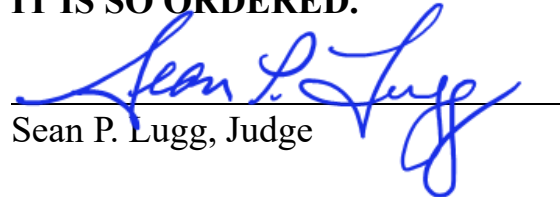
⁵¹ *Id.* at ¶ 22.

⁵² *Id.* at ¶ 19.

CONCLUSION

15. The STCA affords state officials immunity for acts which are: (1) discretionary; (2) undertaken in good faith; and (3) undertaken without gross or wanton negligence. To succeed on a motion to dismiss, Defendants must demonstrate the existence of all three factors. As pled, and accepting all reasonable inferences in favor of Scott, the complaint alleges the failure to perform a ministerial act and that failure may support a finding gross negligence. To be clear, even at this early stage of the litigation, this is a close case. However, the Court concludes Scott has alleged facts sufficient to survive the grant of immunity under the Delaware State Tort Claims Act; the facts developed in discovery may support a different conclusion. Defendants' Motion to Dismiss is **DENIED**.

IT IS SO ORDERED.


Sean P. Lugg, Judge