STATE OF MICHIGAN

COURT OF CLAIMS

SALENA LAWRENCE #227800,

Plaintiff,

v

Case No. 25-000063-MP

HEIDI E. WASHINGTON, JEREMY HOWARD, MDOC STATE ADMINISTRATIVE BOARD, and CORRECTIONS OFFICER J. MACK,

Hon. Michael J. Riordan

Defendants.
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OPINION AND ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' SECOND MOTION FOR SUMMARY DISPOSITION

Plaintiff, Salena Lawrence, an inmate with the Michigan Department of Corrections (MDOC), filed this lawsuit against defendants—the MDOC State Administrative Board (SAB), MDOC Director Heidi E. Washington, Warden Jeremy Howard, and Corrections Officer J. Mack—pursuant to § 5501 of the Prison Litigation Reform Act (PLRA), MCL 600.5501 *et seq*. Plaintiff alleges that Officer Mack destroyed plaintiff's specialty-sized clothing and shoes and that the other defendants mishandled plaintiff's administrative claim against Officer Mack. On March 23, 2026, defendants' motion for summary disposition of the original complaint was denied, and plaintiff was ordered to file a verified amended complaint that addressed several deficiencies in her original complaint. On April 15, plaintiff filed an amended complaint. Defendants now move for summary disposition of the amended complaint under MCR 2.116(C)(7) (immunity) and (8), arguing that plaintiff's amended complaint did not address the deficiencies in

her original complaint. Because this matter can be adequately addressed on the briefing, the Court grants defendants' request to dispense with oral argument. For the reasons discussed below, the Court GRANTS IN PART and DENIES IN PART defendants' motion for summary disposition, and DISMISSES WITH PREJUDICE plaintiff's claims against Director Washington, Warden Howard, and the SAB.

I. BACKGROUND

The March 23 Opinion and Order in this matter outlined the relevant factual background:

> This lawsuit filed under the PLRA involves a claim that defendants failed to reimburse plaintiff for personal property that she asserts was disposed of intentionally and in violation of the MDOC's policy directives. Plaintiff alleges that on May 28, 2022, she reported to a healthcare facility to be screened for COVID-19. She asserts that as she was packing up her belongings to attend the screening, including her clothing, shoes, and undergarments, Officer Mack instructed her to leave her unit immediately to report to the facility as part of a quarantine protocol. Plaintiff complied and left her belongings behind.
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> Upon returning to her housing unit less than two hours later, plaintiff noticed that she was missing numerous personal items, including her shoes, her undergarments, and her tank tops. Plaintiff asked Officer Mack where the missing property was, and Officer Mack responded by stating "that what she could not pack was abandoned property[,] and she threw it in the trash." Plaintiff asserts that the disposal of her personal property violated MDOC Policy Directive 04.07.112, relating to the handling of a prisoner's personal property. She asserts that she should have been given a reasonable opportunity to exchange the items that did not fit in her "pack-up" and that the MDOC was required to hold her personal property for 30 days before disposal.
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> In June 2022, plaintiff submitted a Step I grievance under MDOC Policy Directive 03.02.130 (involving policy violations by MDOC officials), which she supported with handwritten witness statements of other prisoners. Two witnesses stated that they saw Officer Mack throw out plaintiff's property, and other prisoners retrieved some of the items from the trash. Some items were later sold. Another witness stated that she saw Officer Mack cutting up plaintiff's clothing and throwing it away. Two other witnesses stated that Officer Mack had a pattern of cutting up and throwing away the personal clothing of other inmates.
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> After an investigation, the MDOC resolved the grievance by concluding that "[e]very effort will be made to ensure that Staff are aware of any applicable

> polices [sic] through-out the course of their duties, however a conclusion of this investigation cannot be substantiated at this level, therefore any actions deemed necessary will be addressed administratively." The MDOC considered plaintiff's grievance resolved at Step I. However, because plaintiff submitted receipts for the missing items and witness statements, the MDOC recommended that plaintiff's grievance be treated as a request to the SAB to reimburse her for the items on her receipts and noted that any amount over $1,000.00 would be resolved by the Prisoner Benefit Fund, if applicable.
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> Plaintiff filed a prisoner claim with the SAB for personal property losses of less than $1,000.00. Plaintiff attached receipts for the clothing she purchased, totaling $458.39. The dated receipts showed that the property was purchased between 2017 and 2021, although some receipts were undated. Several years went by without a resolution of the claim. In January 2024, plaintiff spoke with Warden Jeremy Howard, who stated he was not aware of the situation and instructed plaintiff to send him new copies of the relevant documentation. Plaintiff alleges she sent copies of the documents to Warden Howard. However, her SAB claim continued to go unaddressed for several more months.
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> In October 2024, plaintiff filed a complaint relating to her missing property in 15th District Court Case No. 24-06247-GC. The case was dismissed for lack of subject-matter jurisdiction. Plaintiff asserts that within that timeframe, she received notice that there was an error in the MDOC's system such that documentation from the SAB did not make it to plaintiff earlier. But plaintiff was notified that her claim was submitted to the SAB in early January 2025. In March 2025, the SAB approved reimbursement of plaintiff's claim in the amount of $288.26, which was less than the total amount plaintiff requested because the SAB accounted for depreciation of her personal items. Plaintiff acknowledges she received a check from the MDOC but maintains she did not receive it until May 2025, a month after she filed this lawsuit.
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> Plaintiff submitted a notice of intent to file a claim (NOI) in this Court on March 10, 2025, which was signed and notarized. Plaintiff asserted in the NOI that she would seek compensatory damages of $616.51 and punitive damages of $2,642.84. In April 2025, plaintiff filed this lawsuit, raising a claim for $954.56 in compensatory damages and $3,000 in "punitive damages" for physical and mental pain and suffering [*Lawrence v Washington*, opinion and order of the Court of Claims, issued March 23, 2026 (Case No. 25-000063-MP) (alterations in original).]

Defendants moved for summary disposition at the outset of the case, arguing that plaintiff failed to exhaust her administrative remedies, failed to file a verified complaint as required under MCL 600.6434(2), failed to plead her claims in avoidance of governmental immunity, and failed to plead proximate causation and damages. *Id*. at 5. Judge REDFORD, who presided over this case

at that time, concluded that plaintiff complied with the notice requirements of the COCA by submitting a timely NOI, which was properly verified. *Id*. at 7. However, because plaintiff had an independent obligation under MCL 600.6434(2) to verify her complaint, Judge REDFORD ordered that plaintiff submit an amended, verified complaint within 28 days of the Opinion and Order. *Id*. at 8. Judge REDFORD concluded that plaintiff exhausted her administrative remedies, allowing this lawsuit to proceed. *Id*. at 12.

On the issue of governmental immunity, Judge REDFORD concluded that plaintiff pleaded a cognizable claim that Officer Mack's conduct was grossly negligent under the exception to governmental immunity outlined in MCL 691.1407(2). *Id*. at 14. However, Judge REDFORD granted plaintiff the opportunity to amend her complaint to plead any intentional tort claims she intended to raise against Officer Mack, as well as to plead her claims in avoidance of governmental immunity as it related to Warden Howard, Director Washington, and the SAB. *Id*. at 14-15. Judge REDFORD rejected defendants' proximate-causation argument and permitted plaintiff to amend her complaint to clarify her claim for emotional damages. *Id*. at 15-17.

On April 15, 2026, plaintiff filed an amended complaint, which did not contain a verification. In her amended complaint, plaintiff alleged that she requires specialty-sized clothing because of her stature. She alleged that, because Officer Mack disposed of her shoes, she now has to wear State-issued shoes that were two sizes too small, causing injuries to her feet. The same is true of her new clothing, which is ill-fitting and caused rashes on her body. She also alleged that she suffered humiliation and degradation by having to wear ill-fitting clothing. Plaintiff further asserted that she cannot replace all the specialty-sized items because the vendor for specialty-sized clothing ended its contract with the MDOC. Plaintiff also outlined her requested damages, noting

that the figures in her original complaint are "the correct damages Plaintiff seeks." The amended complaint does not address the legal basis for plaintiff's claims against defendants.

In their motion for summary disposition of the amended complaint, defendants argue that the amended complaint does not address the deficiencies outlined in this Court's March 23 Opinion and Order as it relates to verification and avoidance of governmental immunity. Defendants point out that while the amended complaint was signed and dated, it was not verified before a notary public, as required under MCL 600.6434(2); did not plead a claim in avoidance of governmental immunity as it relates to Warden Howard, Director Washington and the SAB; and did not include allegations of wrongdoing as it relates to Officer Mack. Thus, defendants argue that plaintiff's claims are barred by governmental immunity and subject to dismissal under MCR 2.116(C)(7). Alternatively, defendants argue that plaintiff failed to state a claim on which relief may be granted. They argue that plaintiff's amended complaint focused solely on her claim for monetary damages without identifying any cognizable claims for relief.

Plaintiff responds that she alleged in her amended complaint that Officer Mack violated the law and MDOC procedures when she destroyed plaintiff's clothing. She argues that "the initial filing is the correct filing" and apologizes to the Court for her misunderstanding of this Court's prior order. Plaintiff argues that she filed a verified claim and argues that "because she maintained her initial complaint was correct in her amended complaint it was not necessary for her to repeat her factual allegations."

Defendants also moved, pursuant to MCR 2.306(A)(2), for leave to take plaintiff's deposition because of plaintiff's status as an MDOC prisoner. Plaintiff has responded.

II. ANALYSIS

MCR 2.116(C)(7) provides that summary disposition may be granted because the claim is barred by immunity granted by law. *Dextrom v Wexford Co*, 287 Mich App 406, 428; 789 NW2d 211 (2010).

> When reviewing a motion under MCR 2.116(C)(7), [the court] must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them. If any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact. If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court. However, if a question of fact exists to the extent that factual development could provide a basis for recovery, dismissal is inappropriate. [*Id*. at 428-429 (quotation marks and citation omitted).]

A motion for summary disposition under MCR 2.116(C)(8) examines the legal sufficiency of the plaintiff's claims based solely on the factual allegations raised in the complaint. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). The Court must accept the factual allegations in the complaint as true and will decide the motion on the pleadings alone. *Id*. at 160. The motion is granted if the claim is so clearly unenforceable as a matter of law that no factual development would possibly justify recovery. *Id*.

The Court first addresses defendants' threshold argument that this Court should dismiss plaintiff's complaint for failure to comply with the March 23 order requiring that plaintiff file a verified complaint within 28 days. MCL 600.6434 governs pleadings in the Court of Claims and provides, in relevant part: "The complaint shall be verified. The pleadings of the state need not be verified." MCL 600.6434(2). The statute does not require that the complaint be verified within a particular timeframe. Plaintiff indicates in her response brief that she has already filed a verified complaint. Plaintiff cites page eight of the March 23 Opinion and Order, which discussed

plaintiff's timely NOI. *Lawrence*, op at 8. It appears that plaintiff's argument arises from her confusion about the fact that she verified the NOI that she filed in this Court, thus fulfilling her notice obligation under MCL 600.6431. However, plaintiff has a separate obligation to verify her complaint even though she filed a verified NOI. See MCL 600.6434(2). Because MCL 600.6434(2) outlines a procedural requirement that does not contain a timeframe for fulfillment, and considering that plaintiff is a pro se litigant entitled to some leniency on the form of her pleadings, the Court will permit plaintiff one final opportunity to verify her complaint within 28 days of her receipt of this Opinion and Order.

As for defendants' argument that plaintiff has not pleaded in avoidance of governmental immunity, Judge REDFORD concluded in the March 23 Opinion and Order that plaintiff pleaded facts that "are sufficient to plead a claim that Officer Mack engaged in conduct so reckless as to demonstrate a substantial lack of concern for whether an injury to plaintiff's property would result from her actions," thus satisfying her obligation to plead a claim falling under the exception outlined in MCL 691.1407(2). See *Lawrence*, op at 14.

Defendants argue that because plaintiff amended her complaint, the amendment superseded the initial complaint, rendering the original complaint abandoned and withdrawn. Defendants rely on MCR 2.118(A)(4), which provides: "Amendments must be filed in writing, dated, and numbered consecutively, and must comply with MCR 2.113. Unless otherwise indicated, an amended pleading supersedes the former pleading." While it is true that an amended complaint typically supersedes the original complaint, the Court is also mindful of plaintiff's status as a pro se litigant and recognizes her confusion about whether she had to amend her original complaint or whether she had to supplement the original complaint. Plaintiff's amended complaint refers to her initial complaint and focuses on the element of damages, suggesting that plaintiff believed her

original complaint would be incorporated by reference. Considering Judge REDFORD's prior ruling that plaintiff pleaded a cognizable claim for gross negligence against Officer Mack, the Court will grant plaintiff leave to file a verified, second-amended complaint. See MCR 2.118(A)(2). The second-amended complaint must incorporate plaintiff's gross-negligence claim against Officer Mack and her new allegations regarding damages from the second-amended complaint.

However, the Court agrees with defendants that plaintiff has failed to plead a claim in avoidance of governmental immunity as it relates to Director Washington, Warden Howard, and the SAB, despite having the opportunity to amend her complaint. MCL 691.1407(1) provides, "Except as otherwise provided in this act, a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function." MCL 691.1407(2) adds:

> Except as otherwise provided in this section, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency, each volunteer acting on behalf of a governmental agency, and each member of a board, council, commission, or statutorily created task force of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency if all of the following are met:
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> (a) The officer, employee, member, or volunteer is acting or reasonably believes he or she is acting within the scope of his or her authority.
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> (b) The governmental agency is engaged in the exercise or discharge of a governmental function.
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> (c) The officer's, employee's, member's, or volunteer's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

MCL 691.1407(5) adds, "A judge, a legislator, and the elective or highest appointive executive official of all levels of government are immune from tort liability for injuries to persons or damages

to property if he or she is acting within the scope of his or her judicial, legislative, or executive authority."

"[T]he plaintiff must allege facts warranting the application of an exception to governmental immunity." *Plunkett v Dep't of Transp*, 286 Mich App 168, 180; 779 NW2d 263 (2009). Plaintiff's original complaint did not plead a claim in avoidance of governmental immunity for Director Washington, Warden Howard, or the SAB. Plaintiff was required to amend her complaint to "identify whether she is pleading in avoidance of governmental immunity as to Warden Howard, Director Washington, and the SAB[,]" and to "identify the factual and legal bases for why governmental immunity would not protect" these defendants. *Lawrence*, op at 15.

Plaintiff's amended complaint does not include any new claims against these defendants and only addresses the issue of damages. As Judge REDFORD previously concluded, plaintiff does not allege any claims that would fall outside of the exercise or discharge of a governmental function or that would fit within a statutory exception to governmental immunity. Because the Court has already granted leave to amend the complaint and plaintiff did not raise allegations against these defendants in either the original or amended complaint that would fall within an exception to governmental immunity, the Court concludes that plaintiff has failed to plead a claim against these defendants in avoidance of governmental immunity. The SAB, Warden Howard, and Director Washington are entitled to summary disposition under MCR 2.116(C)(7).

Finally, the Court concludes that the motion to take plaintiff's deposition is premature. Once plaintiff has the opportunity to amend her complaint and an answer is filed, the Court will issue a revised scheduling order. The motion is denied without prejudice.

III. CONCLUSION

Accordingly, the Court orders:

1. Defendants' motion for summary disposition is GRANTED IN PART and DENIED IN PART.

2. Plaintiff's claims against Director Washington, Warden Howard, and the SAB are DISMISSED WITH PREJUDICE.

3. Plaintiff shall file, within 28 days of receipt of this Opinion and Order, a second-amended complaint that (1) includes a verification, (2) incorporates the gross-negligence claim against Officer Mack raised in the original complaint, and (3) incorporates the damages claims as outlined in the original and first-amended complaints. Plaintiff may not add any new claims against any of the defendants.

4. No further amendments to the complaint will be permitted.

5. Officer Mack shall file an answer to the complaint within 21 days of service of plaintiff's second-amended complaint.

6. Defendants' motion for leave to take plaintiff's deposition is DENIED WITHOUT PREJUDICE.

7. This is not a final order and does not close the case.

Date: 11/16/2026

Michael J. Riordan
Judge, Court of Claims