

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,

Plaintiff,

v.

PENNSYLVANIA STATE  
CONSTABULARY,

Defendant.

SUMMARY APPEALS BRANCH

Case No. SA-23-552

**DEFENDANT'S RESPONSE IN  
OPPOSITION TO MOTION FOR  
RECONSIDERATION AND REQUEST  
FOR SANCTIONS AGAINST  
PLAINTIFF**

Filed on behalf of Defendant:

**PENNSYLVANIA STATE  
CONSTABULARY**

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial system of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Roy E. Leonard

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**DEFENDANT’S RESPONSE IN OPPOSITION TO MOTION FOR  
RECONSIDERATION AND REQUEST FOR SANCTIONS AGAINST PLAINTIFF**

Defendant Pennsylvania State Constabulary (“**Defendant**”) respectfully submits this Response in Opposition to the Motion for Reconsideration filed by Plaintiff Commonwealth of Pennsylvania, Department of Transportation (“**Plaintiff**”) on May 17, 2024 (the “**Motion for Reconsideration**”), and requests sanctions be imposed against Plaintiff, stating as follows:

**I. INTRODUCTION**

Plaintiff asks this Court to reconsider its Order granting Defendant’s Motion to Enforce the Automatic Supersedeas and for Sanctions (the “**Motion to Enforce**”), which was considered and ruled on by the Court less than three (3) weeks ago on May 9, 2024 (the “**Order**”). The Order required the Pennsylvania State Police and/or Castle Shannon police to return registration plate number MG3590N to Defendant by May 16, 2024 and refrain from seizing and otherwise directing the seizure of such registration plate from Defendant unless and until this Court enters an order requiring the return of such registration plate to Plaintiff.

Although the relief that Plaintiff requests is styled as a “Motion for Reconsideration,” Plaintiff fails to provide any legal authority or otherwise identify the proper standard for such reconsideration. Plaintiff does nothing more than repeat facts, arguments, and circumstances that the Court is and was aware of when it entered the Order granting the Motion to Enforce.

The Motion for Reconsideration attempts to re-litigate this matter by, *inter alia*, revisiting facts and actions in this case, falsely accusing Defendant of making material misrepresentations and providing false information to Plaintiff, arguing the merits of the Petition for Appeal, and asking this Court to take unsupported and punitive actions against Defendant.

Despite its recitation, Plaintiff does not offer any substantively new or relevant information for the Court to re-consider its Order. For the reasons set forth below, the Court should deny Plaintiff’s Motion for Reconsideration in its entirety.

## **II. LEGAL STANDARD**

*First*, “[i]t is well settled that [Plaintiff’s] interpretation of [the Vehicle Code] is given controlling weight unless it is clearly erroneous.” *Riverwalk Casino v. Pennsylvania Gaming Control Board*, 592 Pa. 505, 530 (Pa. 2007) citing *Street Road Bar Grille, Inc. v. Pennsylvania Liquor Control Board*, 583 Pa. 72, 876 A.2d 346, (Pa. 2005). “[N]o deference is due where [Plaintiff] exceeds its legal authority or its interpretation [of the Vehicle Code] is clearly erroneous”. See *Marcellus Shale Coal. v. Dep’t of Env’tl. Prot. of Pa.*, 292 A.3d 921, 929 (Pa. 2023). “Commonwealth agencies have no inherent power to make law or otherwise bind the public or regulated entities. Rather, an administrative agency may do so only in the fashion authorized by the General Assembly.” See *Nw. Youth Servs., Inc. v. Commonwealth*, 66 A.3d 301, 310 (Pa. 2013).

*Second*, the rule of lenity applies to this matter. The statutes at issue are imposing and granting relief from a sanction on Defendant (*i.e.*, the suspension<sup>1</sup> of its vehicle’s registration, without an administrative hearing, for the alleged non-payment of required fees), a sanction which also subjects Defendant and its drivers to predicate sanctions and, therefore, must be considered penal in nature and strictly construed in accordance with the rules of statutory construction. *See Commonwealth v. Humphrey*, 283 A.3d 275, 298 (Pa. 2022) citing *Harmon v. Unemployment Comp. Bd. of Review*, 163 A.3d 1057, 1066 n. 13 (Pa. Commw. Ct. 2017) holding that “[a]lthough the rule of lenity is not strictly confined to criminal statutes, the statute at issue must still be penal in nature in that it (a) defines an offense and (b) imposes a corresponding fine or punishment.” *See also* 1 Pa.C.S.A. § 1928(b)(1).

### III. ARGUMENT

#### A. Plaintiff’s Motion for Reconsideration Revisits the Same Facts and Legal Arguments Previously Raised in the Hearing on the Motion to Enforce.

Plaintiff has not introduced any substantively new or relevant factual allegations, arguments, or circumstances that the Court did not already consider in the Motion to Enforce hearing and provides no meritorious legal arguments or analysis. Absent such material information for the Court to re-consider, Plaintiff’s Motion for Reconsideration should be denied.

#### B. Plaintiff’s Arguments Mischaracterize Plaintiff’s Own Actions and the Effect of the Automatic *Supersedeas*, Which Fail as a Matter of Law.

*First*, Plaintiff’s action against Defendant was to suspend, not revoke, Defendant’s registration plate. *See* Exhibit A to the Motion to Enforce (the “**Official Notice of Suspension**”). Defendant’s registration plate was suspended pursuant to Section 1373(b)(2), which provides for

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<sup>1</sup> Section 102 of the Vehicle Code defines “suspend” as: “[t]o withdraw temporarily by formal action of the department any license, registration or privilege issued or granted by the department. Following a period of suspension, the department shall restore the license, registration or privilege.”

a suspension without hearing, when the required registration fees have allegedly not been paid. Contrary to what Plaintiff avers in Paragraphs 3-4 of the Motion for Reconsideration, the sanction imposed against Defendant was a “suspension” not a “revocation”. The term “suspend” is a defined sanction (*see* footnote 1 *supra*). In the Motion for Reconsideration, Plaintiff attempts to conflate an indefinite suspension with a revocation, which is clearly erroneous. The suspension’s duration was “indefinite,” not “perpetual” or “permanent,” as Plaintiff now asserts. Plaintiff’s own policies and procedures recognize and distinguish “term sanctions” from “non-term sanctions”.

In a fact sheet published by Plaintiff entitled, “Driving Privilege Sanctions and Restoration Requirements Letter,” Plaintiff describes in relevant part:

A sanction is an action taken against an individual’s driving privilege. A sanction can be a suspension, revocation, disqualification, cancelation, or recall. An individual does not need to be licensed to have a sanction imposed against their driving privilege. All term (i.e., set period) sanctions must be served in full. **A non-term sanction such as an indefinite suspension or recall remains in effect until released.** (emphasis added)<sup>2</sup>

Since the above-mentioned sanctions are defined terms under Section 102, it follows that these sanctions apply uniformly to vehicle registrations. *See* 75 Pa.C.S.A. § 103 (relating to the uniformity of interpretation).

***Second***, Plaintiff’s purportedly new and fabricated claim for relief fails as a matter of law. Plaintiff now asserts that “the **only avenue for relief** for an **improper grant of a registration plate** is an **indefinite revocation** given that the [Defendant] was issued a government municipal plate **only upon his misrepresentation**, to the [Plaintiff], that he is a ‘political subdivision’ of the Commonwealth” (emphasis added). *See* Motion for Reconsideration ¶ 4. Even if Plaintiff’s

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<sup>2</sup> Available at <https://www.dot.state.pa.us/public/DVSPubsForms/BDL/BDL%20Fact%20Sheets/FS-DPSRRL.pdf> – Last Accessed May 28, 2024

assertion were true, which Defendant flatly rejects,<sup>3</sup> the applicable sanction would remain a **suspension** and would not somehow inexplicably become a **revocation**.<sup>4</sup> In fact, under Plaintiff's revised narrative, Defendant would have received the opportunity for a hearing before Plaintiff imposed the suspension, which Defendant was not afforded under Section 1373(b)(2).

In either scenario, Plaintiff's only authorized action would have been to suspend, not revoke, Defendant's registration plate. Since both Subsections A and B of Section 1373 only include "suspend," and exclude "revoke" and all other types of sanctions, the General Assembly's intent thereunder is indisputable. Thus, Plaintiff's averments in Paragraphs 3-4 are clearly erroneous, in that Plaintiff would be expanding its authority beyond what the statute authorizes.

*Third*, the Petition for Appeal was made under Section 1377,<sup>5</sup> not Section 1550.<sup>6</sup> Plaintiff erroneously directs the Court's attention to Section 1550 as the basis for Defendant's appeal. The prayer for relief contained within the Petition for Appeal specifically requests "that a hearing date be granted de novo to determine whether petitioner is subject to **suspension** of his/her...**registration plate number** and **this appeal act as a supersedeas pending said hearing**" (emphasis added). Notwithstanding the omitted citation in the Petition for Appeal, all petitions appealing vehicle registration suspensions are made under Section 1377, not Section 1550. In Paragraphs 6-7, Plaintiff attempts to exploit this omitted citation in a standard form used by the

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<sup>3</sup> Defendant categorically denies every allegation made by Plaintiff throughout the Motion for Reconsideration that Defendant made material misrepresentations or provided false information to Plaintiff or any other party in connection with its application for the registration plate that Plaintiff issued to Defendant.

<sup>4</sup> Section 1373(a)(3) of the Vehicle Code reads, in relevant part: "(a) **Suspension** after opportunity for hearing.--The department may **suspend any registration** after providing opportunity for a hearing in any of the following cases when the department finds upon sufficient evidence that: (3) **The owner or registrant has knowingly made a false statement or knowingly concealed a material fact** or otherwise committed a fraud **in any application or form required to be filed by this title**" (emphasis added).

<sup>5</sup> See Section 1550, which applies only to the judicial review of **driver licensing** matters under Chapter 15.

<sup>6</sup> See Section 1377, which applies only to the judicial review of **vehicle registration** matters under Chapter 13.



Department of Court Records (Civil Division) to argue that the Court erred in granting Defendant's Motion to Enforce.

*Fourth*, Plaintiff fails to cite any legal authority for its purportedly new and fabricated claim against Defendant. Ironically, the Official Notice of Suspension and the type of sanction imposed by Plaintiff in this case, a notice Plaintiff now dismisses as "boilerplate," were in fact the same official notices and the same type of sanction imposed by Plaintiff in the cases it relies on in its Motion for Reconsideration. Plaintiff's capricious attempt to transpose its sanction *ex post facto* from a "suspension" to a "revocation" fails as a matter of law.

*Fifth*, Plaintiff presents a clearly erroneous legal standard regarding the automatic *supersedeas*. Plaintiff submits to the Court as the relevant standard, "as to the **determination of whether a *supersedeas* should be granted**, is found in *Pennsylvania Public Utility Com'n v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983) *overturned on other grounds* by 511 A.2d 1315 (Pa. 1986)" (emphasis added). See Motion for Reconsideration ¶ 12. The standard that Plaintiff proposes that this Court adopt applies in only those cases where a party makes an application for a stay pending appeal, or when an automatic *supersedeas* is not otherwise mandatory by statute, such as the Vehicle Code. The judicially created four-part test Plaintiff describes is used by courts to evaluate such applications.

However, as was correctly decided by this Court, Defendant never **applied for or requested** the automatic *supersedeas*; rather, the *supersedeas* automatically occurred upon Defendant's timely filing of the Petition for Appeal. Plaintiff's assertion that "[Defendant] is not legally entitled to a *supersedeas* as a matter of simply filing their appeal," when Plaintiff's action against Defendant was clearly a suspension, is inapposite to the relevant language in Section 1377. Thus, Plaintiff's arguments in Paragraphs 13-22 of the Motion for Reconsideration, that the

automatic *supersedeas* under the Vehicle Code should not be applied in this case, have no merit whatsoever.

*Sixth*, what Plaintiff is quite obviously asking this Court to do is to change the sanction Plaintiff has imposed on Defendant since September 26, 2023, from a suspension to a revocation, so that the automatic *supersedeas* was never in effect, and Plaintiff is relieved from having violated the automatic *supersedeas*. Plaintiff's self-serving attempt to revise the facts and its own actions in this case, and citations to legal authority that have no application to this case, has further deprived Defendant of the rights and remedies the General Assembly clearly intended for it to have, in order for Plaintiff to escape culpability.

*Seventh*, all of Plaintiff's arguments fail, as a matter of law, when analyzed in accordance with the rule of lenity, as referenced above.

**C. Plaintiff Wrongfully Attempts to Litigate the Merits of the Petition for Appeal and Other Bad Acts by Plaintiff.**

As the Court advised Plaintiff during the Motion to Enforce hearing, after attempting similar arguments, motions are not the appropriate venue for the parties to argue the merits of the case. Section 1377 specifically calls for a "determination of the matter as provided in this section," which is the Petition for Appeal hearing. The matter now before the Court, which was ruled on in the affirmative, is whether Defendant's statutory due process rights were violated.

In addition, Plaintiff's Counsel has made material misrepresentations to this Court. During the argument of the Motion to Enforce hearing, Plaintiff's Counsel represented to the Court that Plaintiff did not cause the termination of Defendant's registration plate that directly led to its unlawful seizure by police, and that Plaintiff was not in possession of Defendant's registration plate at the time of the Motion to Enforce hearing, both representations of which caused the Court to modify Defendant's proposed order. Considering the arguments that Plaintiff now asserts in

Paragraphs 8, 9, and 24 of the Motion for Reconsideration, Defendant submits that Plaintiff's representations to the Court were made in bad faith, for which sanctions should be imposed against Plaintiff. *See also* Exhibit D of the Motion to Enforce, which is Plaintiff's Acknowledgement of Seized Vehicle Registration form.

**D. Plaintiff's Additional Requests Are Unsupported and Punitive.**

Plaintiff's request to modify the Order, for the purpose of requiring Defendant to re-apply for a registration plate, is unsupported and punitive in nature. Plaintiff's request is an attempted end-run around the automatic *supersedeas* and would render the General Assembly's clear intent in Section 1377 meaningless if Defendant were compelled to re-apply for a registration plate.

**IV. CONCLUSION**

WHEREFORE, for the reasons set forth above, Defendant respectfully requests that this Honorable Court **DENY** Plaintiff's Motion for Reconsideration in its entirety and enter an order granting the following additional relief:

1. Confirming that the automatic *supersedeas* for Defendant's registration plate number MG3590N has been in full force and effect since the filing of the Petition for Appeal on October 6, 2023, and that it shall continue to be in effect, unless and until this Court issues an order requiring otherwise;

2. Ordering Plaintiff to return the registration plate MG3590N to Defendant within five (5) business days or, if Plaintiff determines that it has lost, destroyed, or otherwise cannot return Defendant's original registration plate, that Plaintiff shall issue a replacement Municipal Government (MG) registration plate to Defendant within five (5) business days, which shall have the same uninterrupted effect as the automatic *supersedeas* in Paragraph 1 above;

3. Ordering Plaintiff to cause all of its relevant records to be updated to show Defendant's original (or replacement) registration plate as valid within five (5) business days, unless and until this Court issues an order requiring otherwise;

4. Ordering that the Pennsylvania State Police and every other Pennsylvania law enforcement agency with authority to enforce the Vehicle Code be prohibited from seizing Defendant's original (or replacement) registration plate, unless and until this Court issues an order requiring otherwise;

5. Awarding Defendant lost income and costs incurred, in an amount to be determined at trial, as a direct result of Plaintiff's (1) actions or inactions that resulted in the "dead" registration plate seizure from Defendant, and (2) losing, destroying, or otherwise failing to return the original registration plate in accordance with the Order; and

6. Reasonable attorney's fees and costs incurred in connection with making the Motion to Enforce and responding to the Motion for Reconsideration, and such other and further relief as this Court deems appropriate.

A proposed Order is attached hereto.

Date: May 28, 2024

Respectfully submitted,

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**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2024, upon consideration of the Defendant Pennsylvania State Constabulary's Response in Opposition to Motion for Reconsideration and Request for Sanctions Against Plaintiff, and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED that Plaintiff Commonwealth of Pennsylvania, Department of Transportation's Motion for Reconsideration is **DENIED** in its entirety.

It is hereby further ORDERED, ADJUDGED, DECREED, and DIRECTED that:

1. The automatic *supersedeas* for Defendant's registration plate number MG3590N has been in full force and effect since the filing of the Petition for Appeal on October 6, 2023, and that it shall continue to be in effect, unless and until this Court issues an order requiring otherwise;
2. Plaintiff shall return the registration plate number MG3590N to Defendant within five (5) business days or, if Plaintiff has lost, destroyed, or otherwise cannot return Defendant's original registration plate, that Plaintiff shall issue a replacement Municipal Government (MG) registration plate to Defendant within five (5) business days, which shall have the same uninterrupted effect as the automatic *supersedeas* in Paragraph 1 above;

3. Plaintiff shall cause all of its relevant records to be updated to show Defendant's original (or replacement) registration plate as valid within five (5) business days, unless and until this Court issues an order requiring otherwise;

4. Pennsylvania State Police and every other law enforcement agency with authority to enforce the Vehicle Code shall not seize Defendant's original (or replacement) registration plate, unless and until this Court issues an order requiring otherwise;

5. Defendant is awarded lost income and costs incurred, in an amount to be determined at trial, as a direct result of Plaintiff's (1) actions or inactions that resulted in the "dead" registration plate seizure from Defendant, and (2) losing, destroying, or otherwise failing to return the original registration plate in accordance with the Order; and

6. Reasonable attorney's fees and costs incurred in connection with making Defendant's Motion to Enforce and responding to Plaintiff's Motion for Reconsideration.

BY THE COURT

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

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served on counsel of record listed below by Electronic Mail and/or ordinary U.S. Mail, First Class service, postage prepaid, on this 28<sup>th</sup> day of May, 2024.

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