
IN THE SUPREME COURT OF MARYLAND

—————
No. 56, September Term 2025
SCM-REG-0056-2025
—————

PRINCE GEORGE’S COUNTY, MARYLAND

Petitioner

v.

JOSEPH WATTS

Respondent

—————
ON WRIT OF CERTIORARI TO THE APPELLATE COURT OF MARYLAND
—————

**BRIEF FOR METROPOLITAN WASHINGTON EMPLOYMENT LAWYERS
ASSOCIATION, ACLU OF MARYLAND, AND PUBLIC JUSTICE CENTER AS
AMICI CURIAE IN SUPPORT OF RESPONDENT**

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STATEMENT OF INTEREST OF MWELA

The Metropolitan Washington Employment Lawyers Association (“MWELA”), founded in 1991, is a professional association and is the local chapter of the National Employment Lawyers Association, a national organization of attorneys who specialize in employment law. MWELA conducts continuing legal education programs for its more than 350 members, including an annual day-long conference which usually features one or more judges as speakers. MWELA frequently participates as amicus curiae in important cases concerning employment law in the federal and state courts of Maryland, the District of Columbia, and Virginia, the three jurisdictions in which its members primarily practice. This includes, on at least sixteen prior occasions, this Court. Because the outcome of this case will directly impact the potential employment discrimination cases of workers represented by MWELA members that are brought against local governments in Maryland, MWELA has an interest in the fair resolution of the issues presented in this appeal.

STATEMENT OF INTEREST OF THE ACLU OF MARYLAND

The American Civil Liberties Union of Maryland (“ACLU of Maryland”) is the Maryland affiliate of a nationwide, non-profit, non-partisan organization with nearly two million members and supporters dedicated to the preservation and defense of civil rights and liberties. The ACLU of Maryland has long been committed to protecting Marylanders’ rights to be free of unlawful discrimination and to ensure federal and state laws are interpreted and applied in conformity with constitutional guarantees in the courts, in legislative and policy arenas, and in the community. The ACLU of Maryland directly represents community members who rely on statutory civil rights protections and remedies,

including state and federal statutory claims for equitable relief and damages against governmental entities – both as recovery for their harms and protection against life-changing and dehumanizing discriminatory practices, including in the employment context. *E.g.*, *Hispanic Law Enforcement Association NCR, et al. v. Prince George’s County*, 535 F.Supp.3d 393 (D. Md. 2021) (Title VII); *Savage v. Pocomoke City*, 1:16-cv-00201 (D. Md. 2020) (Title VII) . This case involves issues which will impact how our members, clients, and communities may access justice for unlawful employment discrimination.

STATEMENT OF INTEREST OF THE PUBLIC JUSTICE CENTER

The PJC is a non-profit civil rights and anti-poverty legal services organization. Established in 1985, the PJC uses impact litigation, public education, and legislative advocacy through a race-equity lens to accomplish law reform for its clients. The PJC’s Appellate Advocacy Project has a longstanding commitment to protecting and advancing Marylanders’ employment rights, including for individuals who have suffered discrimination at the hands of their employer. *See, e.g.*, *Ocheltree v. Scollon Prods., Inc.*, 335 F.3d 325 (4th Cir. 2003); *Edwards Sys. Tech. v. Corbin*, 379 Md. 278 (2004); *Haas v. Lockheed Martin Corp.*, 396 Md. 469 (2007); *Ruffin Hotel Corp. of Md., Inc. v. Gasper*, 418 Md. 594 (2011); *Prince of Peace Lutheran Church v. Linklater*, 421 Md. 664 (2011) (all amicus briefs).

INTRODUCTION

The Circuit Court improperly held that the substantial judgment in this case, pursuant to a statutory discrimination claim, was subject to the damage cap of the Local Government Torts Claims Act (“LGTC”), Md. Code, Courts & Jud. Proc. § 5-301, *et seq.* That ruling was directly contrary to this Court’s binding decisions in multiple cases. The Circuit Court did so by radically expanding the meaning of the term “tortious act or omission” under the LGTCA, Courts & Jud. Proc. § 5-303, to cover almost any form of civil wrong committed by a local government, including statutory employment claims like those of Mr. Watts. This Court has explicitly ruled that this is an incorrect interpretation of the term “tort action” or “tortious act or omission” under the Maryland or Local Government Tort Claims acts. *Williams v. Morgan State Univ.*, 484 Md. 534, 548-551, 300 A.3d 54, 61-63 (2023) (Applying cases interpreting both the Maryland Tort Claims Act (“MTCA”) and LGTCA and ruling that: “this Court has never held that ‘tort action’ *or any similar phrase*, either as used in the MTCA or in any other statute, applies generally to state statutory claims”).

In *Watts v. Prince George’s County*, 267 Md. App. 332, 345 A.3d 1113 (2025), the Appellate Court reversed the Circuit Court and applied this Court’s binding precedent, which governs this case. First, the Appellate Court held that the term “tortious act or omission” under the LGTCA, Md. Code, Courts & Jud. Proc. § 5-303, has the same meaning as the term “tort action” in the MTCA, Md. Code, State Gov’t § 12-104(a)(1). *Watts*, 267 Md. App. 343-47, 345 A.3d at 1120-22. Second, it applied this Court’s own analysis in *Williams* to support its conclusion that statutory discrimination claims,

including state statutory discrimination claims, such as those of Mr. Watts, are not “torts.” *Id.* at 346-52, 345 A.3d at 1121-25. Thus, the Appellate Court correctly ruled that, if the legislature permits a state or local government to be sued under a specific statutory cause of action, the plaintiff’s damages are only governed by the damage caps, or lack of such caps, within the specific statutory schemes themselves. *Id.* at 235-53, 345 A.3d at 1124-25. This Court should adhere to its prior rulings and affirm the decision of the Appellate Court.

STATEMENT OF THE CASE

Amici curiae adopt the Statement of the Case in Respondent’s brief.

ISSUE PRESENTED

Did the Appellate Court correctly hold that statutory discrimination claims are not torts and therefore not subject to the damage limitations in the Local Government Tort Claims Act?

STATEMENT OF THE FACTS

Amici curiae adopt the Statement of the Facts in Respondent’s brief.

STANDARD OF REVIEW

Amici curiae adopt the Standard of Review in Respondent’s brief.

ARGUMENT

The LGTCA Does Not Apply to Statutory Discrimination Claims under Md. Code, State Gov't §§ 20-1013 and 20-1202, Against a Local Government.

A. The MTCA and LGTCA Apply to the Exact Same Categories of Claims.

The purposes of the MTCA and LGTCA are the same and the bargain they contain is simple: they waive the State of Maryland's general sovereign immunity (MTCA) or local governments' governmental immunity (LGTCA) for tort claims in return for capping the damages available to plaintiffs. *Jacome de Espina v. Jackson*, 442 Md. 311, 337-338, 112 A.3d 442, 457-58 (2015). The MTCA and the LGTCA use slightly differing language to define the tort claims that they cover. The MTCA uses the term "tort action" and the LGTCA uses the term "tortious acts or omissions." State Gov't. § 12-104(a)(1); Courts & Jud. Proc. § 5-303(a)(1). However, as the Appellate Court correctly held, this Court interprets the terms in the same way, using the same body of jurisprudence, and the terms cover the same type and scope of claims. *Williams*, 484 Md. at 548-551, 300 A.3d at 61-63; *see also Lee v. Cline*, 384 Md. 245, 255, 863 A.2d 397, 303 (2004) (determining "whether the Maryland Tort Claims Act grants qualified immunity to state personnel for *tortious acts or omissions*." (emphasis added)).

The General Assembly did not define either "tort action" under the MTCA or "tortious act or omission" under the LGTCA. *Id.* When the General Assembly does not define a term, it is interpreted under Maryland common law. *See, e.g., Shabazz v. Bob Evans Farms, Inc.*, 163 Md. App. 602, 638-39, 881 A.2d 1212, 1233-34 (2005). It is clearly

apparent from the plain language and ordinary understanding of “tort action” and “tortious act or omission” that they apply to the exact same scope of claims. *Id.*; *Pabst Brewing Co. v. Frederick P. Winner, Ltd.*, 478 Md. 61, 75-76, 272 A.3d 324, 332-33 (2022) (statutory analysis begins with the “plain language of the statute” and the ordinary understanding of its language). This Court has consistently been clear in its prior jurisprudence that these phrases, whether from the MTCA or the LGTCA, have the same meaning and apply to the same scope of claims. *Williams*, 484 Md. at 548-551, 300 A.3d at 61-63; *see Lee*, 384 Md. at 255, 863 A.2d at 303. This reading is supported by the statutory scheme of the MTCA, which uses the same language as the LGTCA for its heightened damages limit for torts by police officers: “intentional *tortious acts or omissions* or a violation of a constitutional right committed by a law enforcement officer.” Courts & Jud. Proc. § 5-303(a)(3); *compare with* State Gov’t § 12-104(a)(2)(ii); *Pabst Brewing*, 478 Md. at 75, 272 A.3d at 333 (“plain language must be viewed within the context of the statutory scheme in which it belongs.”). Further, there is nothing within the legislative history of either the MTCA or the LGTCA to indicate any intent by the General Assembly for the phrases “tort action” under the MTCA and “tortious act or omission” under the LGTCA to have different meanings or to govern different scopes of claims, even if the statutes may differ in other ways.

Thus, these analogous phrases apply to the same scope of claims, as repeatedly applied by this Court and correctly applied by the Appellate Court.

B. Statutory Employment Discrimination Claims are Not Torts Within the Meaning of the LGTCA Because They Have No Connection to Common Law or Constitutional Torts.

1. This Court Should Follow Its Reasoning in *Williams* That State Employment Discrimination Claims Like Those of Mr. Watts are Not Torts.

This matter concerns state employment discrimination claims under State Gov't § 20-1013 (enforcing the Maryland Fair Employment Practices Act ("MFEPAC"), State Gov't § 20-606) and State Gov't § 20-1202 (enforcing the Prince George's Human Rights Act ("PGCHRA"), Prince George's County Code § 2-222). The damages cap under the LGTCA only applies to "tortious acts or omissions" and this Court is clear that state employment discrimination claims are not "tort actions" or "tortious acts or omissions", for the reasons explained above. *Williams*, 484 Md. at 548-552, 300 A.3d at 61-64.

In *Williams*, this Court ruled that the MTCA's definition of "tort action" did not extend to statutory claims that were unrelated to common law and constitutional torts. *Id.* While the specific claim at issue there derived from a federal statute, this Court's analysis distinguishing statutory claims from "tort action[s]" applies to both state and federal legislation. *Id.* at 550-54, 300 A.3d at 63-66. It explicitly rejected the argument that *Green v. N.B.C., Inc.*, 409 Md. 528, 976 A.2d 279 (2009) extended the meaning of "tort action" under the MTCA, or "tortious act or omission" under the LGTCA, to include any statutory civil wrong. *Id.* at 551, 300 A.3d at 63-64 ("this Court has never held that 'tort action' or any similar phrase, either as used in the MTCA or in any other statute, applies generally to state statutory claims") (emphasis added). *Williams*, 484 Md. at 551, 300 A.3d at 63. State employment discrimination claims were offered as an exemplar of those falling

outside the meaning of “tort action” or “tortious act or omission”. *Id.* at 553, 300 A.3d at 65 (citing Md. Code, State Gov’t § 20-606).

Statutory claims are characterized by the Maryland General Assembly’s exclusive control over their creation, scope, and any necessary waivers of immunity. In contrast, constitutional torts flow from common law claims which lack the definition of statutory creations, so the MTCA and LGTCA must serve as “gap-filler provision[s]” to limit the extent of governmental liability and waivers of immunity.¹ *Id.* at 552-553, 300 A.3d at 64-65. As the Appellate Court correctly noted, just as the MTCA does not apply where the General Assembly has sole control over a statutory claim it creates – including its scope, limits, and waivers – neither does the LGTCA. *See id.; Espina*, 442 Md. at 337-338, 112 A.3d at 457-58; State Gov’t § 12-104(a)(1); State Gov’t § 5-303(a)(1). Stated inversely, the LGTCA should only apply where a claim emerges from a tort, and state or local legislatures have not provided a statutory scheme to define the claim. *Id.* As a result, the only applicable waivers to immunity for the claim in this case, and the only possible caps on damages, must be written into the MFEP and PGCHRA statutory schemes. *Id.*

¹ The legislature shares control over these claims with the judiciary, which founded the causes of action in common law and retains exclusive authority to interpret the Maryland Constitution and laws (as compared to the Legislature’s power to directly modify the constitution by amendment and the common law by statute). Md. Const. Declaration of Rights, Art. 8.

2. This Court's Reasoning in *Williams* That Statutory Discrimination Claims are Not Torts Within the Scope of Tort Claims Acts (the MTCA and LGTCA) is Rooted in the Foundation of Employment Discrimination Statutes.

This Court's prior reasoning that employment discrimination statutes, including the MFEPA and the PGCHRA, have no connection to common law or constitutional torts is firmly rooted in the purpose and establishment of employment discrimination statutes. That is, statutory employment discrimination protections were created by the legislature in firm *derogation* of the common law, which offered virtually no protection against employment discrimination. *Dillon v. Great Atlantic & Pacific Tea Co.*, 43 Md. App. 161, 166-67, 403 A.2d 406, 409 (1979). The only available common law or state constitutional tort claim for employment discrimination is the very narrow doctrine of wrongful discharge, which encompasses wrongful, abusive, or retaliatory termination only. *Adler v. American Standard Corp.*, 291 Md. 31, 35-36, 36 fn. 2, 46-47, 432 A.2d 464, 467-68, 467 fn. 2, 472-73 (1981). Even there, wrongful discharge is a tort that exists solely to enforce public policy goals codified in specific statutes and only applies if those statutes provide no remedy. *Id.* at 46-47, 432 A.2d at 472-73; *Watson v. Peoples Sec. Life Ins. Co.*, 322 Md. 467, 480, 588 A.2d 760, 766 (1991); *Makovi v. Sherwin-Williams Co.*, 316 Md. 603, 561 A.2d 179 (1989).

The existence of *any* applicable statutory remedy for employment discrimination immediately forecloses any potential claim under a judicially created tort remedy. *Watson*, 322 Md. at 480, 588 A.2d at 766; *Makovi*, 316 Md. at 561 A.2d 179. Similarly, once the General Assembly implemented remedies to enforce claims under MFEPA and PGCHRA,

it severed any possible connection between claims to enforce those Acts and a common law or constitutional tort. *Id.* Therefore, claims under the MFEPA and PGCHRA cannot also be subject to provisions of the MTCA or the LGTCA.

Where a statutory scheme establishes a claim, the MTCA and LGTCA cannot perform any “gap-filler” function – the legislature has exercised its authority to state or remain silent on the claim’s scope, including any damages caps. *Williams*, 484 Md. at 552-53, 300 A.3d at 64-65. The General Assembly has always had complete control over claims to enforce MFEPA and PGCHRA through State Gov’t §§ 20-1013 and 20-1202. Employment discrimination claims under the MFEPA and PGCHRA are pure creations of public policy expressed and defined by the statutes enacted by the state and local legislatures. State Gov’t § 20-606; Prince George’s County Code § 2-222 (adopted through the enforcement mechanism under State Gov’t § 20-1202). When the General Assembly created remedies to enforce those employment discrimination statutes, it took control over the claims and eliminated the possibility of limitations on liability outside of its control. *Watson*, 322 Md. at 480, 588 A.2d at 766; *Makovi*, 316 Md. 603, 561 A.2d 179. And, consequently, this eliminated any space, or need, for the application of the MTCA or LGTCA.

If the General Assembly had not explicitly waived the immunity of local governments to employment discrimination claims under MFEPA, then local governments would have governmental immunity for claims under State Gov’t § 20-1013 and the LGTCA could not be applied to waive it. *Williams*, 484 Md. at 552-53, 300 A.3d at 64-65; *Hansen v. City of Laurel*, 420 Md. 670, 694 fn. 15, 25 A.3d 122, 138 fn. 15 (2011); Md.

Code, State Gov't §§ 20-601(d)(2), 20-903. Once the Prince George's County Council affirmatively included the County within the definition of "employer" under the PGCHRA, with no cap on damages it is liable for, the LGTCA cannot be applied to say otherwise. Prince George's County Code § 2-186(a)(8) ("Employer includes the Prince George's County Government").

Just as the LGTCA cannot be applied as a "gap filler" if statutes lack waivers of immunity, it cannot be applied as a "gap filler" to apply a damages cap where none exists. *Williams*, 484 Md. at 552-53, 300 A.3d at 64-65. The General Assembly already determined the caps that apply to damages for MFEPA claims under State Gov't § 20-1303, including special limits that only apply to claims against governmental units or political subdivisions like Prince George's County. Md. Code, State Gov't §§ 20-1009(b)(2)-(3), 20-1013(d), (e)(1)-(2). By contrast, the General Assembly made the specific decision not to limit the damages for claims under State Gov't § 20-1202(b), including for a claim to enforce the PGCHRA against a local government. *Shabazz*, 163 Md. App. at 638, 881 A.2d at 1233 (ruling that permitting a plaintiff to file a civil action for "damages, injunctive relief, or other civil relief", as § 20-1202(b) does, authorizes any form and amount of damages allowed under Maryland law).

As correctly reasoned by this Court in *Williams*, and held here by the Appellate Court, there is no room for the judiciary to insert the provisions of the MTCA or LGTCA into the statutory schemes of these state employment discrimination statutes. *Williams*, 484 Md. at 553, 300 A.3d at 65. The remedies were totally within the province of the Maryland General Assembly and the Prince George's County Council and the legislatures' failure to

create and apply any damages caps with respect to the statute at issue must control. *Id.*, 484 Md. at 552-53, 300 A.3d at 64-65. To say otherwise would intrude upon the authority of the legislative branch. This Court should thus affirm the Appellate Court’s ruling that the LGTCA does not apply to claims brought under Md. Code, State Gov’t §§ 20-1013 or 20-1202.

CONCLUSION

For the foregoing reasons, MWELA, the ACLU of Maryland and the PJC urge this Court to affirm the Appellate Court’s ruling that the damage caps of the LGTCA cannot be applied to statutory employment discrimination claims.

Dated: April 17, 2026

Respectfully submitted,

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**CERTIFICATE OF WORD COUNT
AND COMPLIANCE WTH MD. RULE 8-112**

1. This brief contains 2,996 words, excluding the parts of the brief exempted from the word count by Md. Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Md. Rule 8-112.

/s/Omar Vincent Melehy
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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2026, copies of this brief were sent via electronic mail and through the Court's e-filing system to the parties below, and two paper copies of the brief were sent first-class mail to them:

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