

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANDREAS PLONKA and CAROLINE  
PLONKA,

Plaintiffs,

v.

BOROUGH OF SUSQUEHANNA et al.,

Defendants.

CIVIL ACTION NO. 3:17-CV-00262

(JUDGE CAPUTO)

**ORDER**

**NOW**, this 5<sup>th</sup> day of April, 2017, **IT IS HEREBY ORDERED** that:

- (1) Pursuant to the screening provisions of 28 U.S.C. § 1915(e)(2)(B), Plaintiffs' Amended Complaint (Doc. 10) is **DISMISSED**.
  - (a) Plaintiffs' Fourth Amendment excessive force claim under 42 U.S.C. § 1983 against Defendant Borough of Susquehanna is **DISMISSED**. Plaintiffs **shall NOT** be granted leave to amend this claim.
  - (b) Plaintiffs' Fourth Amendment excessive force claim under 42 U.S.C. § 1983 against Defendant Police Chief Robert Sweet in his official capacity is **DISMISSED**. Plaintiffs **shall NOT** be granted leave to amend this claim.
  - (c) Plaintiffs' failure-to-train claim under 42 U.S.C. § 1983 against Defendant Borough of Susquehanna is **DISMISSED**. Plaintiffs **shall NOT** be granted leave to amend this claim.
  - (d) The Court declines to exercise supplemental jurisdiction over Plaintiffs' state-law claims for assault, battery, and loss of consortium pursuant to 28 U.S.C. § 1367(c)(3). Accordingly, these claims are **DISMISSED**.
- (2) Plaintiffs shall have **twenty-one (21) days** from the date of entry of this Order to file a second amended complaint that properly pleads a Fourth Amendment excessive force claim under 42 U.S.C. § 1983 against Defendant Police Chief

Robert Sweet in his individual capacity and the state-law claims against Defendant Police Chief Robert Sweet which the Court dismissed herein pursuant to 28 U.S.C. § 1367(c)(3), if they so choose. Leave shall be granted with respect to these claims only. If Plaintiffs do not file a second amended complaint within twenty-one (21) days from the date of entry of this Order, these claims will be **DISMISSED** and the case will be **CLOSED**.

- (3) The Clerk of Court shall forward a copy of this Order and accompanying Memorandum by regular mail to the Borough of Susquehanna and Police Chief Robert Sweet.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge