



**MANN, EMMETT J. V. CITY OF YORK, YORK COLLEGE
REDEVELOPMENT AUTHORITY AND
EIGHT INDIVIDUAL DEFENDANTS**

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A motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure challenges the legal sufficiency of a Complaint. The moving party must show that Plaintiff has failed to "set forth sufficient information to outline the elements of his claim or to permit inferences to be drawn that those elements exist." For purposes of this motion, any facts alleged in a Complaint are assumed to be true. Chief Judge Yvette Kane, of the United States District Court for the Middle District of Pennsylvania, in a Memorandum Opinion filed September 30, 2008, dismissed Emmett Mann's (First Amendment retaliation claim), Fourth Amendment malicious prosecution claim, Fourteenth Amendment procedural and substantive due process claims, and state law claims of intentional infliction of emotional distress, fraud, and civil conspiracy. A single Fourth Amendment claim against a single individual Defendant remained. An Answer was filed.

The factual background that the Court assumed to be true for purposes of this motion only, was that Emmett Mann owned certain real property in York, Pennsylvania. During the years of 2004 and 2005, Plaintiff and York College discussed the possibility of the latter purchasing the property; however, they were unable to agree on a sales price, and negotiations fell through.

Eventually, the City declared Plaintiff's property to be blighted, and the Redevelopment Authority commenced eminent domain proceedings to take the property. These proceedings were vigorously opposed by the filing of preliminary objections to the taking. The objections were denied, and the denial was upheld on

appeal. Thereafter, pursuant to the eminent domain statute, the proceedings were resolved by a determination as to the fair market value of the property.

This legal update is limited to a single legal issue – issue preclusion - also known as collateral estoppel. Traditionally, courts have required the presence of four factors before collateral estoppel may be applied:

- 1) The identical issue was previously adjudicated;
- 2) The issue was actually litigated;
- 3) The previous determination was necessary to the decision; and
- 4) The party being precluded from re-litigating the issue was fully represented in the prior action.

See Henglein v. Colt Industries Operating Corp., 260 F.3d 201, 209 (3d Cir. 2001).

In the federal court matter, Plaintiff alleged that he was denied both procedural and substantive due process because Defendants "unlawfully" agreed to "a course of conduct designed to harass and intimidate the [P]laintiff into compliance with a desire to acquire his property for York College." Yet, in Plaintiff Mann's appeal of the decision denying his objections to the taking in state court, the federal court ruled against him on the same issue. The state court trial judge, Judge Dorney, specifically found that the condemnees had not demonstrated that the purpose [of the RDA and City of York's actions leading up to the taking] was something other than the elimination of the "blighted structure; the fact that the property may end up in the hands of a private entity is immaterial." Judge Dorney's precise and limited role in review of the taking was to determine "whether the condemnor [was] guilty of fraud, bad faith or ha[d] committed an abuse of discretion." Thus it was the Defendants' position in the federal matter, that whether the taking involved bad faith and fraud had been specifically litigated and reviewed and it had been determined that there was no such action. Therefore, the Defendants argued in the federal matter that Plaintiff should be estopped from claiming in federal court that the RDA in York conspired for the purpose of taking his property at a lower price.

In furtherance of this defense theory, the Defendants raised the issue of collateral estoppel in their motion to dismiss in federal court and attached the decision from the Court of Common Pleas of York County, denying Mann's Preliminary Objections. [That decision was upheld in the matter of Emmett J. Mann, et al. v. York City Redevelopment Authority, No. 1253 C.D. 2007.] Contrary to the Defendant's assertion, however, most of Plaintiff's claims depended on different facts and issues, and on parties who were not parties to the state takings proceeding. Therefore, Judge Kane determined in the federal matter that the Plaintiff's claims were not barred by issue preclusion. However, Judge Kane did assess the merits of each claim, and granted the motion to dismiss on unrelated grounds.