

WALTER E. LORD and
LLOYD D. BURNS,

Plaintiffs

vs.

HENRY DUNN, INC.,

Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

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: NO. 04-01,658

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: MOTION FOR SUMMARY JUDGMENT

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Date: August 11, 2005

ORDER

This Order is entered in relation to the Motion for Summary Judgment of Plaintiffs Walter E. Lord and Lloyd D. Burns filed July 25, 2005. The motion is DENIED. As stated in this court's Opinion and Order dated August 11, 2005 regarding Defendant's motion for summary judgment, Plaintiffs have presented sufficient evidence to establish a prima facie case for the de facto merger exception to the successor liability rule. However, whether that evidence is sufficient to carry Plaintiffs' burden of establishing by a preponderance of the evidence that a merger occurred between Henry Dunn, Incorporated and Mallalieu-Golder Insurance Agency, Incorporated is an issue for the fact finder to resolve. Accordingly, the motion for summary judgment is DENIED.

BY THE COURT,

William S. Kieser, Judge

cc: David C. Shipman, Esquire
Evan S. Williams, III, Esquire