

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MS. EMILY J. FIRTH, in her own right	:	
individually and on behalf of her husband,	:	
Mr. William Clarke Firth, Deceased, and as his	:	
guardian ad litem on behalf of all persons	:	
entitled to share in damages,	:	
 Plaintiffs	:	No. 05-00,686
	:	CIVIL ACTION
v.	:	
	:	
MUNCY VALLEY HOSPITAL, also d/b/a	:	
SUSQUEHANNA HEALTH SYSTEM,	:	
and	:	
DAVID KAHLER, M.D.,	:	
and	:	
MARK D. BEYER, D.O.,	:	
 Defendants	:	PRELIMINARY OBJECTIONS

MEMORANDUM OPINION AND ORDER

Before this Honorable Court is Defendant Muncy Valley Hospital, also d/b/a Susquehanna Health System’s (hereinafter “Defendant”) May 22, 2006 preliminary objections to the Plaintiff’s First Amended Complaint. Argument was held on said Preliminary Objections on June 30, 2006.

This matter was commenced on April 13, 2005 by the filing of a Praecipe for Issuance of a Writ of Summons; said Writs were issued that same day. The Plaintiff filed a complaint on May 25, 2005. Defendant Muncy Valley Hospital, also d/b/a Susquehanna Health System filed preliminary objections on June 16, 2005 and Defendants Kahler and Beyer filed preliminary objections on June 22, 2005. On December 29, 2005, the Honorable William S. Kieser issued a Memorandum Opinion and Order denying in part and granting in part the Defendants’ preliminary objections; Judge Kieser gave the Plaintiff twenty (20) days to file an amended complaint in conformance with his December 29, 2005 Memorandum Opinion and Order. After

being granted an extension, the Plaintiff filed her First Amended Complaint on May 1, 2006. On May 2, 2006, the Defendant filed the instant preliminary objections.

The Defendant's preliminary objections, both in the nature of a motion to strike, attack (1) the Plaintiff's claim for damages that are unrecoverable under the Wrongful Death Act, and (2) the Plaintiff's claim for vicarious liability and corporate negligence against unnamed/unidentified individuals.

In her amended complaint, the Plaintiff seeks recovery for, *inter alia*, the following:

- greatedened worsening of health [of the Plaintiff] with the loss of his person [her husband, the decedent], he being he who best attended her¹
- harm to her [the Plaintiff] physical wellbeing and a worsening of her physical conditions, she having lost the services of her best care provider²
- further, additional moneys [sic] paid for the general and special expenses by Plaintiff and her children [and] Decedent's heirs . . . for their attendance to their father Mr. Firth and to address subsequently his death and his funeral and remembrance gathering, and to travel³ to and from their distant homes . . .⁴
- financial support as would have been supplied by her husband and she [the Plaintiff] has lost her home and other sundries he had provided⁵

The Defendant correctly states that, under the Wrongful Death Statute, a Plaintiff can only recover damages for hospital, nursing, medical, funeral expenses, expenses of administration, and pecuniary loss (defined as, maintenance, services and/or gifts with such reasonable frequency as to lead to the expectation of future enjoyment of such maintenance and gifts) to the decedent's family. None of the aforementioned monies sought by the Plaintiff are recoverable under the Wrongful Death Statute. Accordingly, the Defendant's first preliminary objection is granted.

¹ Amended Complaint, paragraphs 48 and 63 (May 1, 2006)

² *Id.*

³ At the June 30, 2006 Conference on this matter, the Plaintiff orally withdrew her request for travel expenses.

⁴ Amended Complaint, paragraphs 66 and 90(g) (May1, 2006).

⁵ *Id.*, paragraphs 83(e) and 90(d) (May 1, 2006).

In his December 29, 2005 Memorandum Opinion and Order, Judge Kieser granted the Plaintiff twenty (20) days in which to file an amended complaint to rectify, *inter alia*, her failure to specifically identify the individuals she alleged to be negligent other than those specifically named in the case caption; this Court finds that the Plaintiff's May 1, 2006 Amended Complaint fails to comport to Judge Kieser's Order. For example, both the Plaintiff's May 25, 2005 Complaint and her May 1, 2006 First Amended Complaint refer generally to the "nursing staff" and "telephone answering staff" that were on duty on a particular date or range of dates. Such descriptions do not "identify the agent by name or "*appropriate description.*" *Alumni Association v. Sullivan*, 369 Pa. Super. 596; 535 A.2d 1095 (Pa. Super. Ct. 1987) (emphasis added); accordingly, the Defendant's second preliminary objection is granted.

ORDER

AND NOW, this _____ day of July 2006, the Court hereby GRANTS the Defendant's May 22, 2006 Preliminary Objections. Accordingly, the Plaintiff's claims for the following damages are hereby STRICKEN:

- greatedened worsening of health [of the Plaintiff] with the loss of his person [her husband, the decedent], he being he who best attended her
- harm to her [the Plaintiff] physical wellbeing and a worsening of her physical conditions, she having lost the services of her best care provider
- further, additional moneys [sic] paid for the general and special expenses by Plaintiff and her children [and] Decedent's heirs . . . for their attendance to their father Mr. Firth and to address subsequently his death and his funeral and remembrance gathering, and to travel⁶ to and from their distant homes . . .
- financial support as would have been supplied by her husband and she [the Plaintiff] has lost her home and other sundries he had provided

Also, the Plaintiff's claims for vicarious liability and corporate negligence are LIMITED to those individuals identified in the caption of this matter.

By the Court,

Nancy L. Butts, Judge

xc: Bonnie L. Kift, Esq., 121 St. Clair Circle, Ligonier, PA 15658
Lisa D. Dauer, Esq., 400 Two PPG Place, Suite 400, Pittsburgh, PA 15222
David R. Bahl, Esq.
Sean P. Roman, Esq.
Hon. Nancy L. Butts, Judge
Gary L. Weber, Esq.
Laura R. Burd, Law Clerk

⁶ At the June 30, 2006 Conference on this matter, the Plaintiff orally withdrew her request for travel expenses.