

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JOYCE BARNES,	:	
Plaintiff	:	
	:	
v.	:	No. 07-00,460
	:	CIVIL ACTION
SUSQUEHANNA HEALTH SERVICES,	:	
Defendant	:	

OPINION and ORDER

Before this Honorable Court, are the Defendant's April 3, 2007 Preliminary Objections to the Plaintiff's March 28, 2007 Amended Complaint. The Defendant contends that, (1) the Plaintiff's Amended Complaint is insufficiently specific and (2) that the Plaintiff's did not properly verify her Amended Complaint. For the following reasons, the Court agrees with the Defendant and SUSTAINS its Preliminary Objections.

The tenor of the Plaintiff's amended complaint is that while under the care of the Defendant, the Plaintiff, as a result of the Defendant's negligence, fell and subsequently sustained injuries for which she is now seeking compensation. The Defendant's main Preliminary Objection is that the Plaintiff's Amended Complaint fails to identify, with the requisite level of specificity necessary to prepare a defense, the individual employees and/or agents whose negligent care she alleges caused her injuries. Moreover, the Defendant argues that the Plaintiff's Amended Complaint also fails to identify, with the requisite level of specificity necessary to prepare a defense, the alleged negligent acts (and facts in support thereof) that caused her injuries. The Plaintiff counters that her Amended Complaint provides the Defendant with adequate information from which the Defendant can review its records and identify the staff who were responsible for the Plaintiff's care at the time of her injury.

The Plaintiff's Amended Complaint fails to identify, with the requisite level of specificity, the individuals who were allegedly negligent and in which manner said individuals were allegedly negligent.

Pennsylvania is a fact pleading state. *Alpha Tau Omega Fraternity v. University of Pennsylvania*, 318 Pa. Super. 293, 298, 464 A.2d 1349, 1352 (Pa. Super. Ct. 1983); Pa.R.C.P. No. 1019(a). A complaint must contain “material facts on which a cause of action or defense is based stated in concise summary form” so as to “apprise the defendant of the claim being asserted, and summarize the essential facts to support that claim.” *Cardenas v. Schober*, 2001 Pa. Super. 253, P24, 783 A.2d 317, 325 (Pa. Super. Ct. 2001); Pa.R.C.P. No. 1019(a). Where the complainant, as in the case *sub judice*, alleges that the Defendant is liable by virtue of an agency relationship, said “complainant must allege, at a minimum, facts which: (1) identify the agent by name or appropriate description; and (2) set forth the agent's authority, and how the tortious acts of the agent either fall within the scope of that authority, or if unauthorized, were ratified by the principal.” *Alumni Association v. Sullivan*, 369 Pa. Super. 596, 605, 535 A.2d 1095, 1111 n.2 (Pa. Super. Ct. 1987). Although the degree of requisite specificity is “incapable of precise measurement,” *Pike County Hotels v. Kiefer*, 262 Pa. Super. 126, 134, 396 A.2d 677, 681 (Pa. Super. Ct. 1978), the complainant must present enough facts so as to permit the Defendant to adequately defend the allegations contained in the complaint, *Weiss v. Equibank*, 313 Pa. Super. 446, 460 A.2d 271 (Pa. Super. Ct. 1983), and prevent the Plaintiff from asserting new causes of action and/or theories of liability after the statute of limitations has expired, *Connor v. Allegheny General Hospital*, 501 Pa. 306; 461 A.2d 600 (Pa. 1983). For example, in *Wickham v. Susquehanna Health System, et al.*, Lycoming County Docket Number 01-01,389, the Defendant raised very similar preliminary objections which the Court sustained stating, “[i]n the event an entry is illegible, the plaintiff shall specify the page number and the medical record

where the individual can be found”. Similarly, in *Blair v. Mehta, M.D., et al.* Lycoming County Docket Number 03-00,954, the Court sustained defense preliminary objections similar to those currently at issue stating, “[i]f the Plaintiffs have a cause of action against “any others”, then they need to set forth the facts to establish the cause of action and, thereby, notify Defendant of the claim”.

Here, the Plaintiff’s March 28, 2007 Amended Complaint alleges, in relevant part, that:

At all times relevant hereto, all acts and/or omissions by the Defendant, Susquehanna Health Systems, through its nursing personnel, occurred while the Plaintiff – Joyce M. Barnes was an in-patient at the facility of the Defendant – Susquehanna Health System and Defendant’s employees, agents and/or servants were acting within the scope of their employment with the Defendant – Susquehanna Health System and for the benefit of and/or under the control of the Defendant – Susquehanna Health System.

Plaintiff’s Amended Complaint at ¶ 3.

The sole, direct, and proximate cause of the injuries and damages sustained by the Plaintiff – Joyce M. Barnes was carelessness, recklessness, and/or negligence of the Defendant – Susquehanna Health system and/or its employees, agents and/or servants particularly Nurse Doe, that were acting on behalf of Defendant – Susquehanna Health System.

Plaintiff’s Amended Complaint at ¶ 15. Language like “nursing personnel” and “particularly Nurse Doe” **do not** comport with Pa.R.C.P. No. 1019(a), *Connor v. Allegheny General Hospital, Alumni Association v. Sullivan*, and the myriad of subsequent cases on this issue. It is the duty of the complainant, by way of pre-complaint discovery and other similar tools, to identify the parties he/she alleges were the cause of his/her injuries with the requisite level of specificity necessary to prepare a defense; to find otherwise would permit the Plaintiff to posit general allegations imposing on the Defendant the burden of preparing a defense to any and all possible vaguely identified parties and actions.

The Plaintiff's Amended Complaint is not properly verified.

Pa.R.C.P. No. 1024(a) requires that “[e]very pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer's personal knowledge or information and belief and shall be verified”. The Plaintiff did not verify her March 28, 2007 Amended Complaint; instead Plaintiff's counsel signed the verification for the Amended Complaint.

ORDER

AND NOW, this _____ day of April 2007, the Court hereby SUSTAINS the Defendant's April 3, 2007 Preliminary Objections to the Plaintiff's March 28, 2007 Amended Complaint; accordingly, the Plaintiff has thirty days (30) from the date of this Order in which to file an Amended Complaint correcting the aforementioned deficiencies.

By the Court,

Nancy L. Butts, Judge

xc: John R. Bonner, Esq.
David R. Bahl, Esq. / Brian J. Bluth, Esq.
Hon. Nancy L. Butts
Judges
Laura R. Burd, Esq. (Law Clerk)
Gary L. Weber, Esq. (Law Clerk)