

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MICHAEL LANDER and	:
DAVID STINE,	:
Plaintiffs	: No. 07-00368
	:
vs.	: CIVIL ACTION – LAW
	:
	:
DOROTHY DANGLE,	:
formerly DOROTHY FINK,	:
Defendant	: Preliminary Objections

ORDER

AND NOW, this ___ day of July 2007, after argument, the Court rules on Defendant’s Preliminary Objections as follows:

Demurrer - The Court **DENIES** Defendant’s demurrer to Plaintiffs’ complaint. The Court thinks this complaint does indicate the argued basis for responsibility of Defendant. Of course, Defendant, in discovery may further delve into Plaintiffs’ claim of legal responsibility of Defendant. The Court cannot say that it is so clear that Defendant can have no responsibility to Plaintiffs as to allow the Court to quash this litigation by a grant of a demurrer.

Specificity - The Court **DENIES** the specificity objection to Count one, but **GRANTS** the specificity objection to Count 2 assumpsit. Plaintiffs should state in Count 2 the contractual basis, direct or implied, with more specificity to their theory in assumpsit.

Objection to Plaintiffs’ Exhibits 5 and 6 - The Court **DENIES** this preliminary objection. The Court sees no harm to Defendant by use of the exhibits where the complaint is otherwise sufficiently specific. For example, in averment 20, Plaintiffs claim the cost of bringing the road into “minimally adequate condition is \$25,378.” This statement

alone might be objectionable since it does not explain how the arrival of this figure was obtained. However, in averment 20, Plaintiffs indicate that the \$25,378 figure is detailed in attached Exhibit 6. Thus, the exhibit explains Plaintiffs' conclusion. The court does not see any particular harm caused by the exhibits and they tend to add to the specificity of the complaint.

Objection for Failure to Join Plaintiffs' Wives as Necessary Parties - The Court **DENIES** this objection. At this time, the Court sees no particular prejudice to Defendant or necessity to join Plaintiffs' wives.

Plaintiffs shall file an amended complaint to Count 2 assumpt within twenty (20) days of receipt of this Order.

Upon receipt of Plaintiffs' amended complaint, Defendant shall answer the amended complaint.

By The Court,

Kenneth D. Brown,
President Judge

cc: Marc Drier, Esquire
Michael Wiley, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)