IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BRENT WAGNER, :

: No. 05-00060

Plaintiff

:

vs. : CIVIL ACTION – LAW

:

EMMANUEL BAPTIST CHURCH, : EMMANUEL BAPTIST CHURCH & :

CHRISTIAN SCHOOL,

WILLIAMSPORT CHRISTIAN : SCHOOL, DAVID BIXLER, : JONATHAN BIXLER, JOEL BIXLER, :

STEPHANIE BIXLER, and GREG : Defendants' Motion for Reconsideration

DOWDY,

:

Defendants :

ORDER

AND NOW, this ____ day of March, 2007, the Court summarily DENIES

Defendant's Motion for Reconsideration. Contrary to the assertions in Defendants' motion, the Court did not decide that the ladder manufacturer and its successor in interest "belonged in this case." The only reason the Court permitted Defendants' first joinder complaint was because it was filed within sixty days of the Court's denial of Defendants' preliminary objections. Therefore, the joinder was timely under Rule 2253 and Graham v. Greater

Latrobe Sch. District, 436 Pa. 440, 443-44, 260 A.2d 731, 733 (1970) and the Court did not believe it had any discretion to deny Defendants' Motion to Join Additional Defendants. In fact, since the motion would be considered timely under Graham, Defendants' might have been able to file their joinder complaint without Court approval. In contrast, Defendants' motion to join Leslie Locke, Inc. and Leslie Building Products, Inc. was not filed until

October 2, 2006, almost 11 months after Plaintiff filed his complaint and 7 months after the Court denied Defendants' preliminary objections. The incident from which this case arose occurred on January 24, 2003. This case was commenced through a writ of summons on or about January 10, 2005. With the agreement of counsel for Plaintiff and Defendants, the case was originally scheduled for the September 2006 trial term, but was rescheduled to May 2007 due to Defendants' initial joinder of Additional Defendants White Metal Rolling and Stamping and Drew Industries. The complaint against Drew Industries was dismissed through preliminary objections and White Metal Rolling and Stamping no longer exists. To allow joinder of additional defendants at this time would put the case back to square one. Moreover, Defendants are not prejudiced, because they can file a separate lawsuit against Leslie Locke, Inc. and Leslie Building Products, Inc.

By The Court,

Kenneth D. Brown, J.

cc: Clifford Rieders, Esquire
Michael Byron, Esquire
John G. Devlin & Associates, P.C.
1515 Market St, Suite 2010,
Philadelphia PA 19103
Work file
Gary Weber, Esquire (Lycoming Reporter)

1 Plaintiff's Complaint was filed on December 7, 2005. The Court denied Defendants' preliminary objections in the nature of a demurrer on March 1, 2006.

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