

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

ROBERT E. CONFER, SR. and	:
KATHY L. CONFER, his wife,	:
Plaintiff	:
	:
vs.	:
LUCIEN M. SNOOK and	:
SCOTT SNOOK,	:
Defendant	:
	:

NO. 08-02,081

OPINION AND ORDER

This matter comes before the court on Defendant's preliminary objections to Plaintiff's complaint. Plaintiff alleges injuries as a result of being struck by an automobile which rolled off a trailer owned and operated by the Defendant. The preliminary objections include a demur or motion to strike Count #3 which was a request for punitive damages and also averment 10 to the extent that it uses the word recklessness. Further, Defendant has objected to averment 10q to the effect that Defendant was "otherwise negligent, careless and reckless under the circumstances".

Punitive damages are permitted in Pennsylvania for conduct that is outrageous because of Defendant's evil motives or his reckless indifference to the rights of others. Restatement 2nd of Torts 2nd 908(2); Martin v. Johns-Manville Corp., A.2d. 1088(Pa. 1985). Negligence, or even gross negligence is insufficient to justify an award of punitive damages. Takes v.The Metro Edison Co. A.2d 138, 144 (Pa. Super. 1995). In reviewing Plaintiff's complaint, the Court does not find any averment to show the Defendant actually acted with a reckless indifference so great as to make it highly probable that harm would follow. Perhaps the strongest averment in the complaint would be Paragraph 10g, failing to find an appropriately safe location for attachment of

the winch to the vehicle. In short, the facts as pled do not support a claim of outrageous conduct, but rather gross negligence at most.

Paragraph 10q of the complaint is vague and conclusory and violates the principles set forth by our Supreme Court in Conner v. Allegheny Gen. Hosp. 501 Pa. 306, 461 A.2d 600 (1983).

ORDER

AND NOW, this 9th day of December, 2008, Count #3 for punitive damages is stricken and **DISMISSED** without prejudice.

10q. is stricken and **DISMISSED**. The other preliminary objections are overruled. Defendant shall file an answer to Plaintiff's complaint within 20 days.

By the Court,

Richard A. Gray, Judge

RAG/kae

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