

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DENISE D. ISKI,	:	NO. 11 – 02,105
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
HARPER COLLINS PUBLISHERS,	:	
Defendant	:	Preliminary Objections

OPINION AND ORDER

Before the court are preliminary objections filed by Defendant on May 31, 2012. Argument was heard June 28, 2012.

In her amended complaint, Plaintiff alleges she was employed by Defendant Harper Collins, and on May 12, 2011, met with the manager and informed him of her intent to resign to accept a new position in Florida. According to the amended complaint, the manager informed Plaintiff that once she tendered her resignation, she had no re-employment rights and could not rescind the resignation. The manager gave Plaintiff the form shortly thereafter, she filled it out and turned it in. Several minutes later, according to the amended complaint, the entire plant was informed of a layoff and severance benefit packages offered to those who worked through November that year. Plaintiff brings a count of fraud and a count of negligent misrepresentation, contending she would have rescinded her resignation and worked through November but for the representation by the manager that she could not rescind her resignation once it was tendered.

In its preliminary objections, Defendant contends Plaintiff has failed to make out a claim for fraud. To sustain a claim for fraud, one must allege: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another to rely on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance. Gibbs v. Ernst, 647 A.2d 882 (Pa. 1994). Defendant contends Plaintiff failed to allege a material misrepresentation, but Plaintiff did allege, in paragraph 5, that the manager advised Plaintiff that once she resigned she could not rescind her resignation, and in

paragraph 12, that such statement was not true. Defendant also contends Plaintiff did not make out a claim for negligent misrepresentation, but the same allegations (set forth above) also support such a claim.

While Plaintiff may not be able to support her allegations that she had a right to rescind her resignation and she had a right to be re-employed, such determinations are not made at the preliminary objection stage of the proceedings. Accordingly, the court will enter the following:

ORDER

AND NOW, this 2nd day of July 2012, for the foregoing reasons, Defendant's preliminary objections are hereby overruled. Defendant shall file an Answer within twenty (20) days of this date.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Richard Callahan, Esq.
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Gary Weber, Esq.
Hon. Dudley Anderson