

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DOUGLAS BYERLY,	:	DOCKET NO. 13-00,362
Plaintiff,	:	
vs.	:	CIVIL ACTION
	:	
LARRY'S CREEK FISH & HUNT CLUB,	:	
EARL BURNSIDE, and STEVEN DELP,	:	PRELIMINARY
Defendants.	:	OBJECTIONS

**ORDER**

AND NOW, this 3<sup>rd</sup> day of July, 2013, following oral argument on Defendants' Preliminary Objections to Plaintiff's Complaint held June 26, 2013, it is hereby ORDERED and DIRECTED that Defendants' objections are SUSTAINED. Specifically, it is ORDERED and DIRECTED that:

1. The phrase "including but limited to," is hereby STRICKEN with prejudice from paragraphs 17 and 21 of Plaintiff's Complaint. *See Connor v. Allegheny Gen. Hosp.*, 461 A.2d 600, 603 n.3 (Pa. 1983); and
2. Plaintiff's allegations that Defendants Burnside and Delp owed a duty to train, instruct, or supervise Plaintiff are hereby STRICKEN with prejudice from Plaintiff's Complaint. *See McMahon v. Pleasant Valley W. Ass'n*, 952 A.2d 731, 736 (Pa. Super. Ct. 2008), *appeal denied*, 961 A.2d 860 (Pa. 2008); *McCandless v. Edwards*, 908 A.2d 900, 903-04 (Pa. Super. Ct. 2006), *appeal denied*, 923 A.2d 1174 (Pa. 2007); *A.T.S. v. Boy Scouts of America*, 13 Pa. D. & C. 4th 499, 504 (Montgomery Co., Feb. 10, 1992), *aff'd without op.*, 620 A.2d 547 (Pa. Super. Ct. 1992). The Court sustains Defendants' demurrer request for the following reasons. Initially, Plaintiff has not alleged that a special relationship existed between himself and Defendants Burnside and Delp. Additionally, Plaintiff has not provided this Court with any incidences where the courts have imposed a

legal duty upon a club member to supervise, train, or instruct a volunteer. Therefore, the Court finds it appropriate to sustain Defendants' demurrer as it pertains to the duty of Defendants Burnside and Delp to train, instruct, or supervise Plaintiff on the date in question.

Defendants shall file an answer to Plaintiff's Complaint within twenty (20) days of this date.

BY THE COURT,

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Gray, J.

cc: Marc S. Drier, Esq. – Counsel for Plaintiff  
Joseph F. McNulty, Jr., Esq. – Counsel for Defendants  
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