

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ERIC R. JORDAN,	:	NO. 15 – 01,736
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
A. KENT SNYDER and LUCINDA M. SNYDER,	:	
i/d/b/a SNYDER’S NURSERY,	:	
Defendants	:	Preliminary Objections

**OPINION AND ORDER**

Before the court are Defendant’s preliminary objections filed August 27, 2015. Argument was heard November 2, 2015.

Defendant objects to the specificity of the Complaint. Plaintiff alleges that he was “caused to trip and fall on a hose and/or watering wand that was in the walkway between the rows of plants that were for sale” on May 16, 2014, while a business invitee on Defendant’s premises. He then alleges that the accident was caused by the negligence of the Defendant “which consisted of the following:

- a. Failure to remove the hose and/or watering wand from the walkway between the rows when they knew or should have known that customers would walk in the area;
- b. Creation of a dangerous and/or unreasonably hazardous condition;**
- c. Failure to adequately, properly and/or completely maintain the premises for safe travel;**
- d. Failure to erect notices, signs and/or warnings of the existing dangerous conditions;**
- e. Failure to properly store the hoses and/or water wands in a location as to provide an alternate safe route for movement on the premises;
- f. Failure to provide safe walkways for their business invitees to walk in order to observe the items for sale;**

- g. Failure to keep the walkways in a reasonably safe condition for ingress and egress of visitors and business invitees;**
- h. Failure to inspect the premises; and
- i. Violation of the laws and regulations of the Commonwealth of Pennsylvania and the Department of Labor and Industry.”**

Defendant argues that sub-paragraphs (b), (c), (d), (f) and (g) merely restate the general averment of negligence and seeks to restrict interpretation of the factual basis of these sub-paragraphs to the presence of the hose or watering wand in the walkway. The court agrees that a fair reading of the entire Complaint provides no factual basis for these averments other than the presence of the hose or watering wand in the walkway. Therefore, the requested interpretation shall apply, unless Plaintiff amends the Complaint to provide another factual basis for these allegations.

Defendant also objects to sub-paragraph (i) as being insufficiently specific. The court finds the following passage instructive:

We have reviewed the pleadings in this case and agree with the defendant Mason that the complaint does indeed lack the required specificity.

Pa. R.C.P. No. 1019(a), 42 Pa. C.S.A., provides: "The material facts on which a cause of action or defense is based shall be stated in a concise and summary form."

A pleading must achieve the purpose of informing the court and the adverse party or parties of the matters in issue. Rule 1019(a) is satisfied if allegations in a pleading (1) contain averments of all facts the plaintiff will eventually have to prove in order to recover, and (2) they are sufficiently specific so as to enable the party served to prepare a defense thereto. *General State Authority v. Sutter Corp.*, 24 Pa. Commonwealth Ct. 391, 396, 356 A.2d 377, 381 (1976); *Baker*

v. Rangos, 229 Pa. Superior Ct. 333, 350, 324 A.2d 498, 505-6 (1974).

Paragraph 9 of the complaint reads as follows:

9. The negligence of the Defendants, acting as aforesaid, consisted, inter alia:

(a) In operating said motor vehicles without due regard and care for the property of Plaintiff.

(b) In failing to have said motor vehicles under proper control so as not to damage the property of Plaintiff.

(c) In operating said motor vehicles at a high and excessive, dangerous rate of speed, under the conditions as aforesaid.

(d) In operating said motor vehicles in violation of the laws of the Commonwealth of Pennsylvania in such cases made and provided.

(e) In failing to stop said motor vehicles so as to avoid striking, colliding and otherwise damaging Plaintiff's property.

Standing by themselves, subparagraphs (a) and (d) clearly lack the requisite specificity. Allegation (a) is merely a legal conclusion unsupported by any allegation of fact. As to allegation (d), although a party need not specifically plead the Act of Assembly ostensibly violated, sufficient facts must be pleaded to bring the case within the appropriate statute. *Goldberg v. Friedrich*, 279 Pa. 572, 124 A. 186 (1924); *Godina v. Oswald*, 206 Pa. Superior Ct. 51, 211 A.2d 91 (1956). No facts are pleaded within subparagraph (d). Given the organizational form of paragraph 9, only the most strained reading of it would permit us to say that the "conclusions" in subparagraphs (a) and (d) are based upon the "facts" alleged in (b), (c) and (e). Even under such a strained reading, the specificity required to enable Mason to prepare its defenses would be lacking. Under such a reading, the linchpin of plaintiff's action against both the defendants would appear to be their failure to conform the operation of their vehicles to the standard of care required by the existing "conditions,"

referred to in subparagraph (c). Yet nowhere in the complaint are such "conditions" described. The proper degree of speed, control, and stopping distance are all largely dependent upon "conditions," and we hold that the defendant is entitled to be informed by the complaint of the nature of the "conditions" referred to.

Commonwealth, Department of Transportation v. Shipley Humble Oil Company, 370 A.2d 438 (Pa. Commw. 1977). Here, Plaintiff has not pleaded any facts which would provide the slightest hint as to which laws and/or regulations he is referencing. Therefore, sub-paragraph (i) will be stricken and Plaintiff may amend to include a specific factual basis and/or reference to a specific law or regulation, if appropriate.

**ORDER**

AND NOW, this 4th day of November 2015, for the foregoing reasons, the preliminary objections are sustained. The factual basis of subparagraphs (b), (c), (d), (f) and (g) shall be interpreted to refer to the presence of the hose or watering wand in the walkway, unless modified by a future amended complaint. Sub-paragraph (i) is stricken, without prejudice to Plaintiff's right to amend this sub-paragraph within twenty (20) days of this date.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Michael Chilcot, Jr., Esq., 146 E. Water St., Lock Haven, PA 17745  
Joseph Musto, Esq.  
Gary Weber, Esq.  
Hon. Dudley Anderson