

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

JESSICA STAIB,		: No. CV 2024-00051
	Plaintiff,	:
VS		:
		:
ELIZABETH OWENS and		: CIVIL ACTION - LAW
DIANTE HILLIAN and JOHN DOE		:
and JANE DOE,		:
	Defendants.	: Preliminary Objections

**OPINION**

On May 14, 2024, this matter came before the Court for oral argument on Defendant’s Preliminary Objections to the Complaint and Plaintiff’s Preliminary Objections to those Preliminary Objections.

**Background:**

The facts of this matter are not completely clear from the face of the Complaint. Based upon the facts discussed at oral argument, it appears that Plaintiff contends that she was injured as a result of improper loading into a vehicle, and that her injuries were the result of the negligence of either Defendant Elizabeth Owens, or Defendant Diante Hillian, or both of them. The inclusion of the named Defendants John Doe and Jane Doe was merely as a precaution, and those Defendants are likely to be dismissed at the close of the pleadings. Elizabeth Owens was erroneously named as Elizabeth Owen.

Discovery has not yet commenced, and the facts of this matter are obviously subject to some dispute.

During the course of oral argument on May 14, 2024, Plaintiff’s counsel conceded that the allegations in the Complaint are “somewhat vague.” The Court agrees. The Complaint names two (2) Defendants who apparently do not exist. The allegations of Paragraphs 13 and 14 are internally inconsistent and make only vague reference to the use of a motor vehicle. Paragraph 14 alleges that Plaintiff’s injuries were caused by the negligence of a Defendant who counsel now believe does not actually exist. It is impossible to determine from the face of the Complaint what events actually caused Plaintiff’s injuries.

On April 10, 2024, Defendants Elizabeth Owens and Diante Hillian filed Preliminary Objections, which point out vagueness and internal inconsistency in the Complaint, and seek to have that Complaint stricken. While those Preliminary Objections are meritorious, they were filed untimely, which is the basis for the other Preliminary Objections filed on April 29, 2024, by Plaintiff.

**Question Presented:**

- I. Whether the Complaint should be stricken.

**Answer to Question Presented:**

- I. The Complaint will be stricken, and Plaintiff will be directed to file an Amended Complaint.

**Discussion:**

This Court is obligated to “liberally construe” the Rules of Civil Procedure “to secure the just, speedy and inexpensive determination of every action” and “may disregard any error or defect of procedure which does not affect the substantial rights of the parties” to that end. Pa.R.C.P. 126. In reviewing preliminary objections, “[a]ll well-pled facts in the complaint, *and reasonable inferences arising from those facts*, are accepted as true. However, unwarranted inferences, conclusions of law, argumentative allegations or expressions of opinion need not be accepted.” *Richardson v. Wetzel*, 74 A.3d 353, 356 (Pa. Commw. Ct. 2013) (quoting *Wilson v. Marrow*, 917 A.2d 357, 361 n. 3 (Pa. Commw. Ct. 2007) (*emphasis added*); *Goehring v. Harleysville Mut. Cas. Co.*, 73 Pa. D.&C.2d 784, 788 (Beaver Cnty. 1976) (“...[A] motion to strike should be overruled unless a party can affirmatively show prejudice...”).

Moreover, “The material facts on which a cause of action or defense is based shall be stated in a concise and summary form.” Pa.R.C.P. § 1019(a). And, “The purpose of this rule is to require the plaintiff to disclose the material facts sufficient to enable the adverse party to prepare the case.” *Bennett v. Beard*, 919 A.2d 365, 367 (Pa. Commw. Ct. 2007). Furthermore, “Pennsylvania is a fact-pleading jurisdiction; consequently, a pleading must not only apprise the opposing party of the asserted claim, ‘it must also formulate the issues by summarizing those facts essential to support the claim.’” *Wetzel*, 74 A.3d at 356–57 (quoting *Sevin v. Kelshaw*, 611 A.2d 1232, 1235 (Pa. Super. Ct. 1992). Finally, “the lower court has broad discretion in determining the amount of detail that must be averred since the

standard of pleading set forth in Rule 1019(a) is incapable of precise measurement.” *United Refrigerator Co. v. Applebaum*, 189 A.2d 253, 255 (Pa. 1963).

Rule 1019(a) is intended to require that each pleading contain sufficient material facts to enable the adverse party to prepare their case, and to prevent surprise. Plaintiff’s counsel explained that they were retained long after the events which gave rise to Plaintiff’s claim, and without sufficient time to permit a thorough investigation. Thus, the Complaint was prepared on the basis of the best information available from the Plaintiff, in the limited time available. Haste makes waste. Plaintiff’s counsel has had a few months to secure additional information, and is now in a position to prepare a superior pleading.

**AND NOW, this 15<sup>th</sup> day of May, 2024, it is hereby Ordered as follows:**

1. The caption of this matter is amended to reflect the correct spelling of the name of Defendant Elizabeth Owens;
2. Defendant’s Preliminary Objections to the Complaint are granted in part and denied in part. Plaintiff is directed to file an Amended Complaint within twenty (20) days of the date of filing of this Order. The allegations of the Amended Complaint will clearly outline the individual allegations of negligence against Elizabeth Owens and Diante Hillian. Conclusions of law such as those set forth in Paragraph 15 of the original Complaint do not satisfy Pa.R.C.P. 1019(a).
3. Plaintiff’s Preliminary Objections to Defendants’ Preliminary Objections are dismissed.

By the Court,

William P. Carlucci, Judge

WPC/aml

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