

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

JAMES SEGRAVES II	: No. CV-2025-01700
Plaintiff,	:
VS	:
	:
SUSQUEHANNA TRANSIT COMPANY	:
Defendants	: Preliminary Objections

**OPINION AND ORDER ON PRELIMINARY OBJECTIONS**  
**FILED FEBRUARY 5, 2026**

This matter came before the Court on March 16, 2026, for oral argument on the Preliminary Objections filed by Defendant on February 5, 2026. The Preliminary Objections are stated in nine (3) numbered counts. At Count I, Defendant contends that the Complaint fails to allege material facts in support of Plaintiff’s claim of negligence. At Count II, Defendant contends that Count II of the Complaint asserting a claim of *res ipsa loquitur* should be stricken. At Count III, Defendant contends that Count III of the Complaint asserting a claim of negligence per se should be stricken.

**QUESTIONS PRESENTED:**

1. WHETHER THE COURT SHOULD REQUIRE PLAINTIFF TO FILE AN AMENDED COMPLAINT ASSERTING MORE MATERIAL FACTS IN SUPORT OF PLAINTIFF’S CLAIM OF NEGLIGENCE.
2. WHETHER THE COURT SHOULD STRIKE COUNT II OF THE COMPLAINT ASSERTING A CLAIM OF RES IPSA LOQUITUR.
3. WHETHER THE COURT SHOULD STRIKE COUNT III OF THE COMPLAINT ASSERTING A CLAIM OF NEGLIGENCE PER SE.

**ANSWERS TO QUESTIONS PRESESENTED:**

1. THE COURT WILL REQUIRE PLAINTIFF TO FILE AN AMENDED COMPLAINT ASSERTING MORE MATERIAL FACTS IN SUPORT OF PLAINTIFF’S CLAIM OF NEGLIGENCE.
2. THE COURT WILL STRIKE COUNT II OF THE COMPLAINT ASSERTING A CLAIM OF RES IPSA LOQUITUR, BUT WILL PERMIT THE PLAINTIFF TO ADVANCE THAT THEORY IN SUPPORT OF PLAINTIFF’S CLAIM OF NEGLIGENCE.

3. AT THIS EARLY STAGE OF THE LITIGATION, THE COURT WILL NOT STRIKE COUNT III OF THE COMPLAINT ASSERTING A CLAIM OF NEGLIGENCE PER SE, BUT WILL REQUIRE THE PLAINTIFF TO EITHER ABANDON THAT CLAIM, OR TO ALLEGE MATERIAL FACTS IN SUPPORT OF THE CLAIM.

**DISCUSSION:**

The Test to Be Applied in Construing the Pa.R.C.P.

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 Co. 1976) (“...[A] motion to strike should be overruled unless a party can affirmatively show prejudice...”).

The purpose of pleadings is to place the opposing party on notice of the claims or defenses asserted against them, and to provide a summary of the material facts upon which those claims or defenses are based. *Yacoub v. Lehigh Valley Medical Associates*, 805 A.2d 579, 589 (Pa.Super. 2002), 2002 Pa.Super. 251 (citing *McClellan v. Health Maintenance Organization of Pennsylvania*, 604 A.2d 1053 (Pa.Super. 1992), 413 Pa.Super. 128). “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. 1992)).

1. THE COURT WILL REQUIRE PLAINTIFF TO FILE AN AMENDED COMPLAINT ASSERTING MORE MATERIAL FACTS IN SUPPORT OF PLAINTIFF'S CLAIM OF NEGLIGENCE.

Plaintiff asserts a claim of negligence at Count I of the Complaint, but offers very few material facts in support of that claim. Many of the conclusions of law set forth at Subparagraphs 18a. through 18j. appear to allege negligence in the operation of Bus #1247, which does not appear to be the circumstances which caused Plaintiff's injury. It appears that Plaintiff was injured as a result of the explosion of some structure on the undercarriage of the bus, which occurred immediately after a fire underneath the bus.

Plaintiff will be directed to file an Amended Complaint setting forth, in more complete detail, the material facts upon which Plaintiff relies to support his claim of negligence.

2. THE COURT WILL STRIKE COUNT II OF THE COMPLAINT ASSERTING A CLAIM OF *RES IPSA LOQUITUR*, BUT WILL PERMIT PLAINTIFF TO ADVANCE THAT THEORY IN SUPPORT OF PLAINTIFF'S CLAIM OF NEGLIGENCE.

Plaintiff asserts at Count II of the Complaint an independent claim of *res ipsa loquitur*. The doctrine of *res ipsa loquitur* is not a cause of action, but simply a rule of evidence. See, *Fassbinder v. Pennsylvania Railroad Company*, 322 F.2d 859, 863 (3<sup>rd</sup> Cir. 1963). Our Supreme Court has described it as follows:

*Res ipsa loquitur* allows juries to infer negligence from the circumstances surrounding the injury. *Res ipsa loquitur*, meaning literally "the thing speaks for itself," is "a shorthand expression for circumstantial proof of negligence—a rule of evidence." *Gilbert v. Corvette, Inc.*, 327 A.2d 94, 99 (1974) 457 Pa. 602 (1974). It is a rule that provides that a plaintiff may satisfy his burden of producing evidence of a defendant's negligence by proving that he has been injured by a casualty of a sort that normally would not have occurred in the absence of the defendant's negligence. WILLIAM L. PROSSER, LAW OF TORTS §§ 39, 40 (4th ed.1971) (calling *res ipsa loquitur* a "simple matter of circumstantial evidence"). As noted, the Restatement (Second) of Torts § 328D formulates the evidentiary theory of *res ipsa loquitur* as follows:

- (1) It may be inferred that harm suffered by the plaintiff is caused by negligence of the defendant when
  - (a) the event is of a kind which ordinarily does not occur in the absence of negligence;
  - (b) other responsible causes, including the conduct of the plaintiff and third persons, are sufficiently eliminated by the evidence; and
  - (c) the indicated negligence is within the scope of the defendant's duty to the plaintiff.

(2) It is the function of the court to determine whether the inference may reasonably be drawn by the jury, or whether it must necessarily be drawn.

(3) It is the function of the jury to determine whether the inference is to be drawn in any case where different conclusions may reasonably be reached.

REST. (SECOND) TORTS § 328D. *See also Gilbert*, 457 Pa. 602, 327 A.2d 94 (adopting *res ipsa loquitur* as defined in the Restatement (Second) of Torts § 328D). By adopting § 328D, we rejected earlier doctrines that had combined substantive and procedural concerns with the evidentiary question of the propriety of inferring negligence from particular circumstances. *Jones v. Harrisburg Polyclinic Hospital*, 496 Pa. 465, 437 A.2d 1134, 1137 (1981); *Gilbert*, 327 A.2d at 98.

*Quinby v. Plumsteadville Family Practice, Inc.*, 589 Pa. 183, 907 A.2d 1061, 1071 (Pa. 2006).

While the Court will strike Count II of the Complaint, Plaintiff is free to allege the elements of *res ipsa loquitur* in support of Plaintiff's claim of negligence.

3. AT THIS EARLY STAGE OF THE LITIGATION, THE COURT WILL NOT STRIKE COUNT III OF THE COMPLAINT ASSERTING A CLAIM OF NEGLIGENCE *PER SE*, BUT WILL REQUIRE THE PLAINTIFF TO EITHER ABANDON THAT CLAIM, OR TO ALLEGE MATERIAL FACTS IN SUPPORT OF THE CLAIM.

The cases in which a Pennsylvania trial court has an evidentiary basis upon which to give the jury Standard Civil Instruction 13.110, regarding negligence *per se* are relatively few. Our Superior Court has described the doctrine as follows:

The concept of negligence *per se* establishes both duty and the required breach of duty where an individual violates an applicable statute, ordinance or regulation designed to prevent a public harm.... Moreover, in analyzing a claim based on negligence *per se*, the purpose of the statute must be to protect the interest of a group of individuals, as opposed to the general public, and the statute must clearly apply to the conduct of the defendant." *J.E.J. v. Tri-County Big Brothers/Big Sisters, Inc.*, 692 A.2d 582, 585 (Pa.Super.1997). "Further, it is well settled that there must be a direct connection between the harm meant to be prevented by the statute, and the injury complained of." *Gravlin v. Fredavid Builders and Developers*, 450 Pa.Super. 655, 677 A.2d 1235, 1239 (1996), *appeal denied*, 546 Pa. 694, 687 A.2d 378 (1996).

*Shamnoski v. PG Energy A Division of Southern Union Company*, 765 A.2d 297, 302 (Pa.Super. 2000).

Since Bus #1247 was not being operated at the time of Plaintiff's injury, most provisions of the Vehicle Code are inapplicable. Nevertheless, Plaintiff is entitled to a reasonable opportunity to conduct discovery on this issue. At this early stage of the litigation, the Court will not strike Count III.

**ORDER**

**AND NOW**, this 17<sup>th</sup> day of March, 2026, it is hereby **ORDERED** as follows:

1. Count I of Defendants' Preliminary Objections to the Complaint, filed on February 5, 2026, are **GRANTED, IN PART**. Plaintiff is directed to file an Amended Complaint, which sets forth in greater detail the material facts upon which Plaintiff's claim of negligence is based.
2. Count II of Defendants' Preliminary Objections to the Complaint, filed on February 5, 2026, are **GRANTED**, and Count II of the Complaint alleging a cause of action for *res ipsa loquitur* is **STRICKEN**. Plaintiff is free to allege the elements of *res ipsa loquitur* in support of Plaintiff's claim of negligence.
3. Count III of Defendants' Preliminary Objections to the Complaint, filed on February 5, 2026, are **GRANTED, IN PART**. Plaintiff is directed to file an Amended Complaint, which identifies the statutes which Plaintiff claims were violated by the Defendant, the violation of which caused Plaintiff's damages. The Amended Complaint shall be filed within twenty (20) days of the date of filing of this Order. Except to the extent of the relief specifically stated herein, Defendants' Preliminary Objections to the Complaint are **DENIED**.

BY THE COURT:

William P. Carlucci, Judge

cc: Count Administrator  
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