

Action in Equity -- Authority of civil court to resolve membership dispute within a congregational church.

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DEBRA WEAVER AND RODNEY G. WEAVER,
PLAINTIFFS VS. ARCH SEWING MACHINE
COMPANY, ET AL., C.P., Franklin County, Branch, No.
A.D. 1993-203

Civil Action-Petition For Leave To Amend Complaint

1. Leave to Amend Complaint is permissible when the amendment to the complaint merely amplifies the original cause of action and does not prejudice the opposing parties.

2. The heart of the issue is whether the proposed amendment to the complaint changes the original cause of action or merely amplifies it.

John N. Keller, Esquire, for Plaintiffs

Robert J. Stewart, Esquire, for Defendant Arch Sewing Machine Company a/k/a Arch Sewing Machine Company, Inc.

Stephen E. Geduldig, Esquire, for defendant Pfaff-Pagausus of USA, Inc., Pfaff International Corporation, GM Pfaff Aktiengesellschaft and Pfaff Industriemaschinen, GmbH

OPINION AND ORDER OF COURT

HERMAN, J., September 28, 1994:

Before the court is the plaintiffs petition for leave to amend the complaint filed in this matter on April 30, 1993.

This complaint arises out of an incident that occurred on June 4, 1991, in which the plaintiff was injured while operating an industrial sewing machine at the Shippensburg, Pennsylvania plant of the Greif Company.

The defendant, Arch Sewing Machine Company, and all other defendants whom we will refer to as the "Pfaff defendants" have filed answers to the plaintiff's petition for leave to amend and therein object to the proposed amended complaint for the reason that it constitutes a new cause of action which is now impermissible as beyond the Statute of Limitations.

Paragraph 17 of the original complaint filed by the plaintiffs states a cause of action based on product liability in that the industrial sewing machine (or otherwise known as a "seat seamer") was defective "in various respects". Subparagraphs a, b and c of Paragraph 17 in the complaint then lists the manner in which the plaintiff claims the seat seamer was defective. The first claim is that the machine lacked an appropriate guard to protect the operator. Next the plaintiff claims that the machine was not accompanied by sufficient warnings to advise a person that a guard was necessary during the operation of a machine. Third, the original complaint claims that the machine was defectively designed in that if in fact it did possess the appropriate protective device on the needle that it was defectively designed so that this protective guard could be removed.

Plaintiff intends to amend the complaint to allege, in addition, that the machine was defective in design for the reason that it did not insure that the appropriate guard or protective device would be in place during the operation of the machine. At argument counsel for the plaintiff suggested that this could have been done by some sort of electrical connection to the guard that would automatically shut off the machine if the guard were removed.

Defendant Arch Sewing Machine Company and Pfaff defendants claim that this amendment cannot be permitted

because it states an entirely new theory based on a different set of facts.

The heart of the issue is whether the proposed amendment to the complaint changes the original cause of action or merely amplifies it. *Conner v. Allegheny General Hospital*, 501 Pa. 306, 461 A.2d 600 (1983). The Pennsylvania Supreme Court in *Conner* allowed the plaintiff to amend the complaint because of certain boiler-plate language in the complaint which left the complaint open for amplification. The court held that language such as "in otherwise failing to use due care and caution under the circumstances." permits the plaintiff to specify other ways in which the defendant may be negligent.

In the instant case Paragraph 17 of the plaintiff's complaint states that the seat seamer was defective "in various respects including the following:". In the instant case the court believes that this language is sufficient under the *Conner* standard to allow the plaintiffs to amplify the cause of action already stated in Paragraph 17 of the original complaint. Furthermore, Paragraph 17(c) appears to be simply another way of stating what the plaintiff intends to prove under the proposed amended Paragraph 17(d). We believe that the proposed amendment is merely a variation on a consistent theme and would not work to prejudice the defendants since it does not state a completely new cause of action.

An appropriate order will issue.

ORDER OF COURT

NOW this day of September, the defendant's petition for leave to amend the complaint having been presented, read, considered and a hearing have been held to hear argument,

IT IS HEREBY ORDERED THAT the defendant's petition for leave to amend the complaint by adding proposed Paragraph 17(d) is hereby **GRANTED**.

BAR NEW ITEM

FEDERAL JUDICIAL NOMINATING COMMISSION

VACANCIES

**U.S. DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

Two (2) vacancies exist in the U.S. District Court for the Middle District of Pennsylvania which must be filled immediately. The Commission is affirmatively charged by Senators Specter and Santorum to seek out qualified men and women and minority candidates for vacancies on the District Court.

The Commission encourages all persons interested in being considered for these vacancies to obtain, complete and submit the Commission Questionnaire, which may be obtained from the Chairman of the Commission, Mr. Herbert Bamess, or his assistant, Terri Brodheim, 975 Easton Road, Warrington, Pa. 18976 or call (215) 343-2780. To be considered for these vacancies the completed questionnaire must be returned by **Friday, January 20, 1995**. Interviews for these vacancies will be held on **February 7, 1995 in Harrisburg**.