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Designated by Order of the Court for the publication of court and other legal notices, the Franklin County Legal Journal (USPS 378-950), 100 Lincoln Way East, Chambersburg, Franklin County, PA 17201-2291, contains reports of cases decided by the various divisions of the Franklin County Branch of the Court of Common Pleas of the 39th Judicial District of Pennsylvania and selected cases from other counties.

**William F. Stanley and Toni L. Stanley, his wife, Plaintiffs vs.
The Manitowoc Company, Inc., Manitowoc Cranes, LLC, Grove
Worldwide, LLC, Grove Worldwide, Inc., And Gary Yablonski,
Defendants**

Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch, Civil Action No. 2016-2250

HEADNOTES

Preliminary Objections: Insufficient Specificity of Pleading

1. “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).
2. The factual averments set forth in a complaint must be sufficiently specific so that the defending party will know how to prepare his defense. See Com. ex. Rel. Pappert v. TAP Pharmaceuticals Products, Inc., 868 A.2d 624, 635 (Pa. Cmwlth. 2005) (citing Dept. of Transportation v. Shipley Humble Oil Co., 3790 A.2d 438 (Pa. Cmwlth. 1977)).
3. Trial courts have broad discretion in determining how much must be plead to meet the Rule 1028(a)(3) specificity requirements. Grudis v. Roaring Brook Tp., 16 Pa. D. & C. 5th 468, 475 (C.P. Lackawa. Cty. 2010) (citing Pike County Hotels Corp. v. Kiefer, 396 A.2d 677, 681 (Pa. Super. 1978)).
4. A plaintiff is not obligated to assert any specific legal theories, merely the facts they believe establish the cause of action. Grudis v. Roaring Brook Tp., 16 Pa. D. & C. 5th 468, 475 (C.P. Lackawa. Cty. 2010) (citing Cardenas v. Scholber, 783 A.2d 317, 325 (Pa. Super. 2001)).

Appearances:

Anthony Cosentino, Esquire *for Plaintiffs*

John Pion, Esquire *for Defendants*

James Decinti, Esquire *for Defendants*

Thomas A. Wimmer, Esquire *for Defendants*

OPINION

Before Meyers, J.

PROCEDURAL HISTORY

William and Tony Stanley (“the Stanleys”) filed the present Complaint against Manitowoc Company, Inc., Manitowoc Cranes, LLC, Grove Worldwide, LLC, Grove Worldwide, Inc., and Gary Yablonski (collectively “the Defendants”) on July 15, 2016. The Defendants filed Preliminary Objections to the Plaintiffs’ Complaint on August 4, 2016, with a supporting Brief filed on September 22, 2016. On August 24, 2016, the Stanleys filed an Answer to Defendants’ Preliminary Objections and

on September 1, 2016, filed a corresponding Brief. Oral argument on the Defendants' Preliminary Objections was heard on October 6, 2016.

This matter is now ripe for decision by this court.

FACTUAL HISTORY

The underlying events of the present action stem from an accident which occurred on July 24, 2014, and took place at 1565 Buchanan Trail East, Greencastle, Pennsylvania ("the Premises"). Plaintiffs' Complaint, ¶¶8-9. At this time, the named Defendant, Gary Yablonski was allegedly operating a crane on said property and struck materials which then struck Mr. Stanley, causing numerous physical injuries. Plaintiffs' Complaint, ¶¶10-11. As a result of these injuries, Mr. Stanley, who was only forty years old at the time of the accident, has allegedly incurred medical expenses suffered wage loss, and has experienced diminution in earning capacity. Plaintiffs' Complaint, ¶¶13-15.

DISCUSSION

I. APPLICABLE STANDARD: PRELIMINARY OBJECTIONS

The standard for evaluating preliminary objections, including demurrer, is laid out in Allegheny Sportsmen's League v. Ridge:

[W]hen ruling upon preliminary objections, the Court must accept as true all well-pleaded allegations of material fact as well as all reasonable inferences deducible therefrom. The Court is not required to accept as true any conclusions of law or expressions of opinion. In order to sustain preliminary objections, it must appear with certainty that the law will not permit recovery, and any doubt should be resolved by refusal to sustain them. A demurrer, which results in the dismissal of a suit, should be sustained only in cases that are free and clear from doubt and only where it appears with certainty that the law permits no recovery under the allegations pleaded.

790 A.2d 350 (Pa. Cmwlth. 2002) (internal citations omitted). In consideration of this standard, this court now analyzes the Defendants' three preliminary objections.

II. ANALYSIS

A. FIRST OBJECTION: INSUFFICIENT SPECIFICITY IN

PLEADING¹

The Defendants' first preliminary objection claims that the Stanleys failed to include *sufficient specific facts* because they did not properly allege Mr. Stanley's employment relationship with the Defendants and should therefore be barred from the present action under the Workers' Compensation Act. Under the Pennsylvania Rules of Civil Procedure, "the material facts on which a cause of action . . . is based shall be stated in a concise and summary form" within the pleadings. Pa. R.C.P. 1019(a). The factual averments set forth in a complaint must be sufficiently specific so that the defending party will know how to prepare his defense. See Com. ex. Rel. Pappert v. TAP Pharmaceuticals Products, Inc., 868 A.2d 624, 635 (Pa. Cmwlth. 2005) (citing Dept. of Transportation v. Shipley Humble Oil Co., 3790 A.2d 438 (Pa. Cmwlth. 1977)).

Here, the court will not address the merits of the Defendants' claims regarding Mr. Stanley's employment status under the Workers' Compensation Act. This court will only address whether sufficient specific facts were plead in the Stanleys' Complaint regarding Mr. Stanley's employment status which would allow the Defendants to prepare an applicable defense.²

Trial courts have broad discretion in determining how much must be plead to meet the Rule 1028(a)(3) specificity requirements. Grudis v. Roaring Brook Tp., 16 Pa. D. & C. 5th 468, 475 (C.P. Lackawa. Cty. 2010) (citing Pike County Hotels Corp. v. Kiefer, 396 A.2d 677, 681 (Pa. Super. 1978)). Each paragraph "must be read in context with all the allegations in the complaint" in evaluating the specificity of the complaint. Id. at 476 (citing Unified Sportsmen of Pennsylvania Game Commission (PGC), 950 A.2d 1120 (Pa. Cmwlth. 2008)). Moreover, the plaintiff is not obligated to assert any specific legal theories, merely the facts they believe establish the cause of action. Id. (citing Cardenas v. Scholber, 783 A.2d 317, 325 (Pa. Super. 2001)). In Grudis, the court found that the phrase "but are not

¹ The court will address both the first and third preliminary objections as one argument. Defendants' first preliminary objection challenges the sufficiency of the pleading for failure to allege sufficient facts, specifically facts pertaining to Mr. Stanley's employment relationship to the Premises. Defendants' third preliminary objection merely reiterates this lack of alleged specific facts and incorporates the first preliminary objection in its entirety. Therefore, the court will address both the first and third preliminary objection as one.

² For even further clarification, the court will not address what type of employment relationship actually existed here, whether it was contractual or statutory as such a finding is not appropriate given the standard for assessing specificity objections under Rule 1028(a)(3). Relatedly, the Defendant has not asserted a demurrer claim, despite making demurrer arguments under the Workers' Compensation Action. See Defendants' Preliminary Objections, ¶8. The Defendants' only mention of demurrer cites it as a *consequence* of lack of specificity, rather than a *separate objection*. Id. ("Had Plaintiffs' Complaint contained sufficient specificity, it would have been clear that under Pa. R.C.P. 1027(a)(4) [sic] Plaintiffs would not be entitled to relief due to the legal insufficiency of their claims"). The Defendants are seeking demurrer through lack of specificity claims which do not warrant such relief. In fact, the first and third Preliminary Objections are titled, "Insufficient Specificity in Pleading." This Court will not infer a claim for demurrer where such claim has only been argued, not plead. Therefore, the court will only apply the standard for evaluating lack of specificity in its analysis and will leave for another day the question of whether the Defendants have a viable defense under the Workers' Compensation Act.

limited to the following” was too vague, broad, and ambiguous to meet the specificity requirements of Rule 1028(a)(3). *Id.* at 478. As such, the court held this open-ended language failed to establish a sufficiently specific factual averment which left the defendant without notice of how to prepare its defense. *Id.* Therefore, although absolute specificity is not mandated by the Rule, the court must ensure ambiguous claims are struck from the complaint. *Id.*

Here, the Defendants claim the Stanleys did not aver sufficient specific facts about Mr. Stanley’s employment status, which would allow the Defendants to identify and raise an applicable legal defense. Specifically, the Defendants claim the Stanleys’ failure to plead certain facts regarding Mr. Stanley’s employment relationship to Aerotek and the Defendants prevented them from raising a defense under the Workers’ Compensation Act and the Pennsylvania Rules of Civil Procedure:

Had Plaintiffs’ Complaint contained sufficient specificity, it would have been clear that under Pa. R.C.P. No. 1027(a) (4) [sic], Plaintiffs would not be entitled to relief due to the legal insufficiency of their claims, or in the alternative, would have failed due to Plaintiffs’ lack of capacity to sue under Pa. R.C.P. No. 1027(a)(5)([sic], resulting in dismissal of all claims against all Defendants.”

Defendants’ Preliminary Objections, ¶8. Despite claiming insufficient specificity of the pleadings, the Defendants simultaneously addressed a potential legal defense under the Workers’ Compensation Act. See Defendants’ Preliminary Objections, ¶¶5-8.

In their Complaint, the Stanleys made specific allegations establishing potential claims for negligence against the Defendants which clearly meet the specificity requirements under Rule 1028(a)(3). They alleged that Mr. Stanley was employed by Allegis Group/Aerotek (“Aerotek”) and was acting within the scope of this employment on the Premises when the accident occurred. Plaintiffs’ Complaint, ¶8. The Stanleys also alleged that on the day of the accident Mr. Yablonski, who allegedly caused the accident, was acting within the scope of his employment with the Defendants on the Premises when he was operating machinery owned by the Defendants. Plaintiffs’ Complaint, ¶9-10. The Stanleys did not use any vague language which could call into question the specificity of their claims against the Defendants or would leave the Defendants questioning what possible defenses to bring. In fact, the Defendants have attempted to argue a legal defense based on the facts averred in the Complaint, but have failed to plead this defense. *See supra*, fn. 2.

Since the Stanleys have met the specificity requirements under

Pa R.C.P. 1028(a)(3), as evidenced by the Defendants' attempt to assert a legal defense under the Workers' Compensation Act, the Defendants' First Preliminary Objection is **OVERRULED**.

B. SECOND OBJECTION: LEGAL INSUFFICIENCY OF PLEADING

The Defendants' second preliminary objection was withdrawn via stipulation on December 2, 2016. Therefore, this court will not address the second preliminary objection.

C. THIRD OBJECTION: INSUFFICIENT SPECIFICITY OF PLEADING

The Defendants' third preliminary objection is identical to its first preliminary objection. Therefore, it has been addressed in conjunction with the Defendants' first preliminary objection and is hereby **OVERRULED** for the reasons stated above. See supra, fn.1.

CONCLUSION

Here, the Stanleys have averred sufficient specific facts to establish grounds on which the Defendants may raise a legal defense. There is no vague language which leaves the Stanleys' claims open to broad interpretation. In fact, the Defendants asserted that they would have raised a defense under the Workers' Compensation Act if certain facts regarding Mr. Stanleys' employment relationship with Aerotek and the Defendants had been alleged in the Complaint. In doing so, the Defendants have implicitly proven the Stanleys' factual assertions are sufficiently specific under Pa. R.C.P. 1028(a)(3). Therefore, the Defendants' First and Third Preliminary Objections are hereby **OVERRULED**.

ORDER OF COURT

AND NOW THIS 7th day of December, 2016, upon review of Defendant's Preliminary Objections, and Plaintiff's,

IT IS HEREBY ORDERED that Defendant's First and Third Preliminary Objections are **OVERRULED**.

This Order is pursuant to the attached Opinion

Pursuant to Pa.R.C.P. 236, the Prothonotary shall give written notice of the entry of this Order, including a copy of this Order, to each party, and shall note in the docket the giving of such notice and the time and manner thereof.