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Franklin County Legal Journal

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SHANNON PETENBRINK, Plaintiff v.

MONT ALTO VILLAGE, Defendant

Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch, Civil Action No. 2020 – 2566

HOLDING: The Defendant’s preliminary objection asserting the Plaintiff failed to conform the *Complaint* to law and/or rules of the Court is sustained. The Defendant’s preliminary objection asserting the Plaintiff failed to properly verify the *Complaint* is sustained.

HEADNOTES

Standard of Review of Preliminary Objections

1. When 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. *Allegheny Sportsmen’s League v. Ridge*, 790 A.2d 350, 354 (Pa. Cmwlth. 2002).

Pro Se Litigants – Compliance with Procedural Rules

2. A pro se litigant is not absolved of the responsibility to comply with procedural rules. *Hoover v. Davila*, 862 A.2d 591, 595 (Pa. Super. 2004).

Pleading – Purpose of Complaint

3. The purpose of a complaint is to place a defendant “on notice of the claims upon which it will have to defend.” *Est. of Denmark ex rel. Hurst v. Williams*, 117 A.3d 300, 306 (Pa. Super. 2015).

Pleading – Specificity of complaint

4. The “specificity with which time and place must be alleged to satisfy Rule 1019(f) depends on the nature of the complaint.” *Baker v. Rangos*, 324 A.2d 498, 509 (Pa. Super. 1974).

Appearances:

John B. Keller, Esquire *for Plaintiff*

Shannon Petenbrink, *pro se*

OPINION

Before Zook, J.

The above captioned matter is before the Court on Defendant's *Preliminary Objections and Motion to Strike Complaint (PO)*, filed October 5, 2020.

I. FACTUAL AND PROCEDURAL HISTORY

Defendant filed a *Notice of Appeal from the Magisterial District Judge Judgment* on September 4, 2020; the Magisterial District Judge had granted judgment to Plaintiff for \$1,361.34. On September 4, 2020, the Prothonotary entered a *Rule* on Plaintiff to file a complaint within twenty (20) days. On September 14, 2020, Plaintiff filed an untitled document (*Complaint*)¹ summarizing her allegations and demanding judgment in the amount of \$3,093.25. On September 28, 2020, Plaintiff filed *Motion Requesting Hearing*, which contained a letter to the Court and various attachments. On October 5, 2020, Defendant filed the *POs*. Defendant erroneously indicated the *Complaint* was attached to the *POs* as an exhibit; Defendant later filed a *praecipe*² to attach the *Complaint* to the *POs*. On October 21, 2020, Plaintiff filed *Preliminary Answers to Alligations* [sic] *to Strike Complaint*.

On December 11, 2020, Plaintiff filed an *Arbitration Praecipe*. On January 13, 2021, Defendant filed a *Motion to Continue Arbitration*. By *Order* dated January 19, 2021, the Court continued arbitration in light of the pending *PO*. On January 22, 2021, Plaintiff filed a *Request* to move toward arbitration. By *Order* filed January 26, 2021, the Court denied Plaintiff's *Request* without prejudice. The Court directed the parties to submit briefs on the *POs* and deemed the *POs* submitted for decision as of March 5, 2021, without oral argument.³ See *Order of Court*, January 26, 2021. Plaintiff filed a *Response*⁴ to the *PO* on February 17, 2021, and filed her brief on February 18, 2021 (*Plaintiff's Brief*). Defendant submitted its brief on March 2, 2021 (*Defendant's Brief*).

This matter is ready for decision.

¹ Both parties view this untitled document as the *Complaint*. See *Plaintiff's Preliminary Answers to Alligations* [sic] *to Strike Complaint*, ¶ 8; *POs*, ¶ 5; *Praecipe to Attach Exhibit A to Defendant's Preliminary Objections*, filed January 29, 2021.

² *Praecipe to Attach Exhibit A to Defendant's Preliminary Objections*, filed January 29, 2021.

³ See Pa.R.C.P. No. 211

⁴ This *Response* was entitled *Preliminary Answers to Alligations* [sic] *to Strike Complaint*.

II. THE OBJECTIONS

Defendant raises several sub-objections in the *POs* but organizes them into two main objections in its brief. See *PO*, ¶¶ 4-14, and *Defendant's Brief*, un-paginated 2-3. Defendant raises objections based on Pa.R.C.P. No. 1028(a)(2), which provides a party may object to a pleading based on the “failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter.” See *PO*, ¶¶ 4-6, 12.

First, Defendant objects the *Complaint* fails to comply with Pa.R.C.P. No. 1019(a). See *PO*, ¶¶ 4-6; *Defendant's Brief*, un-paginated 2-3. Pa.R.C.P. No. 1019(a) provides “[t]he material facts on which a cause of action or defense is based on shall be stated in a concise and summary form.” Defendant asserts the *Complaint* does not sufficiently set forth cause(s) of action and allegations of fact to which Defendant can respond. See *PO*, ¶ 6; *Defendant's Brief*, un-paginated 2.

Second, Defendant objects the *Complaint* fails to comply with Pa.R.C.P. No. 1024. See *PO*, ¶¶ 4, 12; *Defendant's Brief*, un-paginated 3. Pa.R.C.P. No. 1024(a) provides “[e]very pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer’s personal knowledge or information and belief and shall be verified.” Pa.R.C.P. No. 1024(c) provides a verification “shall be made by one or more of the parties filing the pleading unless the parties (1) lack sufficient knowledge or information, or (2) are outside the jurisdiction of the court and the verification of none of them can be obtained within the time allowed for filing the pleading.” Defendant asserts the *Complaint* contains factual allegations but is not verified. See *PO*, ¶ 12; *Defendant's Brief*, un-paginated 3.

III. ANALYSIS

[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.

Allegheny Sportsmen's League v. Ridge, 790 A.2d 350, 354 (Pa. Cmwlth. 2002) (internal citations omitted).

In her brief, Plaintiff repeatedly emphasizes she is unrepresented by counsel and asserts her “failure of understanding or knowledge should

not be held against [her].” See *Plaintiff’s Brief*, page 4. However, a *pro se* litigant is not absolved of the responsibility to comply with procedural rules. *Hoover v. Davila*, 862 A.2d 591, 595 (Pa. Super. 2004). Regardless of Plaintiff’s self-represented status, she is obligated to follow state/local procedural rules.

A. Whether Plaintiff Sufficiently Set Forth Allegations

Pa.R.C.P. No. 1028(a) provides the grounds upon which parties may file preliminary objections. According to Pa.R.C.P. No. 1028(a)(2), a party may file a preliminary objection to a pleading based on the “failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter.” Defendant objects under Pa.R.C.P. No. 1028(a)(2) that the *Complaint* fails to comply with Pa.R.C.P. No. 1019(a). See *PO*, ¶¶ 4-6; *Defendant’s Brief*, un-paginated 2. Defendant asserts Plaintiff failed to sufficiently set forth causes of action and allegations in the *Complaint* to which Defendant can respond.

Pa.R.C.P. No. 1019(a) requires “[t]he material facts on which a cause of action or defense is based on shall be stated in a concise and summary form.” The purpose of a complaint is to place a defendant “on notice of the claims upon which it will have to defend.” *Est. of Denmark ex rel. Hurst v. Williams*, 117 A.3d 300, 306 (Pa. Super. 2015). Here, Plaintiff’s *Complaint* fails to do so. The *Complaint* includes voluminous attachments and disorganized factual allegations; this is insufficient to place Defendant on notice of Plaintiff’s claims “in a concise and summary form,” as required by Pa.R.C.P. No. 1019(a).⁵ See *Complaint*; *Motion Requesting Hearing*.

Pa.R.C.P. No. 1019(f) requires “[a]verments of time, place and items of special damage shall be specifically stated.” The “specificity with which time and place must be alleged to satisfy Rule 1019(f) depends on the nature of the complaint.” *Baker v. Rangos*, 324 A.2d 498, 509 (Pa. Super. 1974). Here, Plaintiff’s *Complaint* contains two paragraphs of various factual allegations and an itemized list of the damages she seeks. Plaintiff does not provide any dates or aver any other details of “time, place and items of special damage” related to the damages sought. See *Complaint*. This is insufficient under Pa.R.C.P. No. 1019(f).

Pa.R.C.P. No. 1019(h) requires “[w]hen any claim or defense is based upon an agreement, the pleading shall state specifically if the agreement is oral or written.” Further, under Pa.R.C.P. 1019(i), “[w]hen any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof,” but if the writing is unavailable

⁵ See also Pa.R.C.P. No. 1022 (requiring every pleading to be divided “into paragraphs numbered consecutively” with each paragraph containing “as far as practicable only one material allegation.”)

to the pleader, “it is sufficient so to state, together with the reason, and to set forth the substance in writing.” Here, Plaintiff references a “lease” in the *Complaint*. However, Plaintiff does not plead whether this lease was oral or written and, if written, did not attach a copy to the *Complaint*. This is insufficient under Pa.R.C.P. No. 1019(h).

Plaintiff failed to sufficiently set forth cause(s) of action and allegations to which Defendant can reasonably answer. Defendant’s first preliminary objection will be sustained.

B. Whether Plaintiff Properly Verified the Complaint

Defendant objects under Pa.R.C.P. No. 1028(a)(2) that the *Complaint* fails to comply with Pa.R.C.P. No. 1024(a). See *PO*, ¶¶ 4, 12. Pa.R.C.P. No. 1024(a) requires “[e]very pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer’s personal knowledge or information and belief and shall be verified.” Defendant correctly asserts the *Complaint* contains factual allegations but is not verified. See *PO*, ¶ 12; *Defendant’s Brief*, un-paginated 3. Defendant’s second preliminary objection will be sustained.

IV. CONCLUSION

Plaintiff failed to plead cause(s) of action and factual allegations in the *Complaint* in a concise and summary form. Defendant’s first objection will be sustained. Plaintiff did not properly verify the *Complaint*. Defendant’s second objection will be sustained. The Plaintiff will be afforded twenty days to file an amended complaint in conformance with the Pennsylvania Rules of Civil Procedure.

An appropriate order follows.

ORDER

AND NOW, this 29th day of March, 2021, on the forgoing *Opinion*, **IT IS HEREBY ORDERED:**

1. The Defendant's preliminary objection related to the Plaintiff's failure to conform the *Complaint* to law and/or rules of the Court is **SUSTAINED**;

2. The Defendant's preliminary objection related to the Plaintiff's failure to properly verify the *Complaint* is **SUSTAINED**;

3. The Plaintiff is granted twenty (20) days to file an amended complaint in conformance with the Pennsylvania Rules of Civil Procedure.

Notice of this judgment shall be given pursuant to Pa.R.C.P. No. 236.