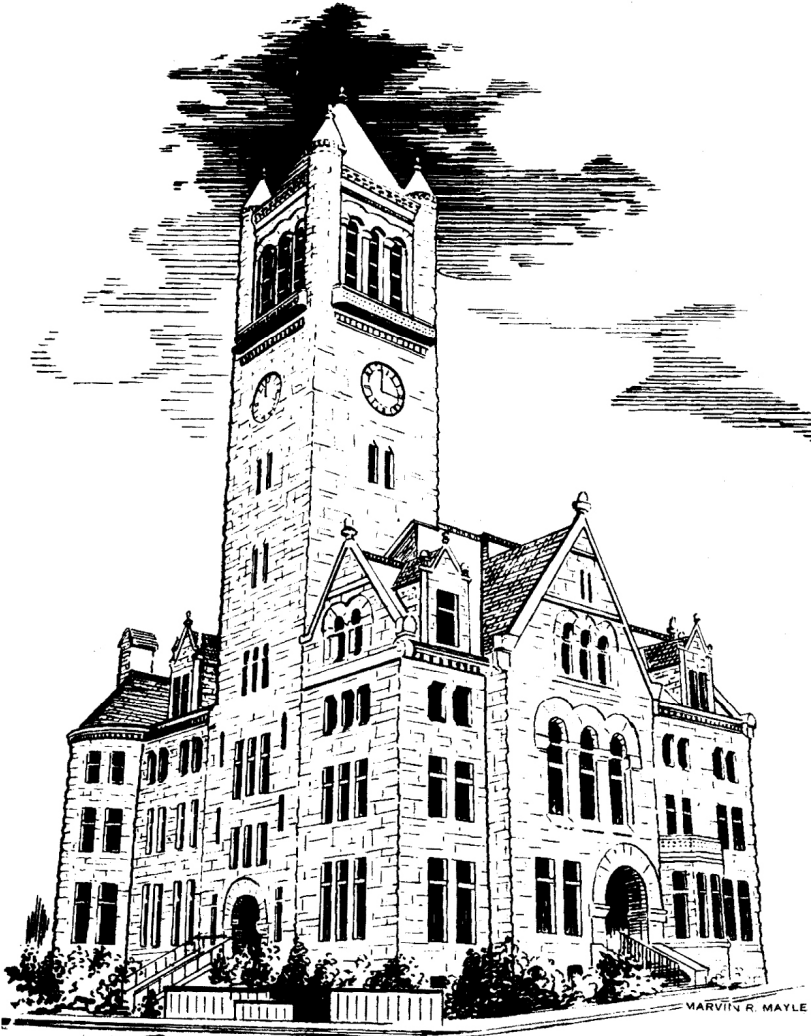


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Third Publication

GEORGE F. ANSELL, a/k/a GEORGE F. ANSELL, III, late of Dawson, Fayette County, PA (3)

Executrix: Carol L. Ansell
319 Laughlin Street
Dawson, PA 15428
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Attorney: Richard A. Husband

VIVIAN BERNARDO, late of Belle Vernon, Fayette County, PA (3)

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c/o 300 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Richard C. Mudrick

MARY LOUISE CHOMIAK, late of Uniontown, Fayette County, PA (3)

Personal Representative:
Robert Thomas Chomiak
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

BETTY LEE GASKILL, late of Uniontown, Fayette County, PA (3)

Administrator: Kathryn A. Kiger
c/o Dentons Cohen & Grigsby, P.C.
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Attorney: Nicole L. Phatak

LAWRENCE D. LEMMON, late of North Union Township, Fayette County, PA (3)

Personal Representative: Sheri Gregg
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107 East Main Street
Uniontown, PA 15401
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BETTY M. MILLS, a/k/a BETTY MAE MILLS, late of Franklin Township, Fayette County, PA (3)

Personal Representative:
Kathy Eileen Hollis
c/o Watson Mundorff, LLP
720 Vanderbilt Road
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Attorney: Timothy J. Witt

PATRICIA A. MORRIS, a/k/a PATRICIA ANN MORRIS, late of Masontown Borough, Fayette County, PA (3)

Personal Representatives: Donald Morris and Susan Schroyer
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Attorney: Gary J. Frankhouser

Second Publication

WINDEL R. HAYES, late of Lower Tyrone Township, Fayette County, PA (2)

Personal Representatives: Jesse O. Ansell
711 N. Bell View Road
Connellsville, PA 15425
Mr. Lon A. Hayes
289 School Road
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c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

VIOLA H. HUGHES, a/k/a VIOLA J. HUGHES, a/k/a VIOLA JAYNE HUGHES, late of Connellsville, Fayette County, PA (2)

Executor: Martin Halfhill
c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

LEGAL NOTICES

AUDREY M. MCDOWELL, a/k/a AUDREY M. WADE, a/k/a AUDREY M. KING, late of Uniontown, Fayette County, PA (2)

Executrix: Shelly Skomra
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

PHYLLIS TRINGES, a/k/a PHYLLIS J. TRINGES, late of Georges Township, Fayette County, PA (2)

Personal Representative: Kathleen Ditmore
c/o George and George, LLP
92 East Main Street, Suite 1
Uniontown, PA 15401
Attorney: G.T. George

RUTH B. WILKINSON, late of Uniontown, Fayette County, PA (2)

Executrix: Myra B. Wilkinson
c/o Webster and Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

First Publication

MARY E. BROOKS, a/k/a MARY ELLEN BROOKS, late of Waltersburg, Fayette County, PA (1)

Personal Representatives: Robert Rowan and Laura L. Moore
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

MARTIN DENNIS YURCHISON, late of Saltlick Township, Fayette County, PA (1)

Executor: Matthew J. Yurchison
c/o Casini and Geibig, LLC
815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about October 1, 2020, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Country Manor Care Center with the principal place of business at: 205 Coldren Rd., Fayette City, PA 15438.

The name or names and addresses of persons owning and interested are: Tepper Hospitality I LLC, 205 Coldren Rd., Fayette City, PA 15438.

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about October 1, 2020, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Melody Manor Care Center with the principal place of business at: 205 Coldren Rd., Fayette City, PA 15438.

The name or names and addresses of persons owning and interested are: Tepper Hospitality II LLC, 205 Coldren Rd., Fayette City, PA 15438.

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about October 1, 2020, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of LATROBE MANOR CARE CENTER with the principal place of business at: 205 Coldren Rd., Fayette City, PA 15438.

The name or names and addresses of persons owning and interested are: TEPPER HOSPITALITY III LLC, 205 Coldren Rd. Fayette City, PA 15438.

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

JESSICA KACZMARCZYK, Executrix of	:	
the ESTATE OF HELEN BOORD,	:	
JESSICA KACZMARCZYK, in her own	:	
right, MATTHEW MYERS, in his own right,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
UNIONTOWN HOSPITAL and	:	
EDWARD SLAYDEN, M.D.,	:	
	:	No. 1210 of 2019, G.D.
Defendants.	:	Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J. October 21, 2020

Before the Court are Preliminary Objections filed by Defendant Uniontown Hospital and Defendant Edward Slayden, M.D., to Plaintiffs’ Amended Complaint.

Defendant Uniontown Hospital objects to insufficient specificity in Plaintiffs’ Amended Complaint for their failure to identify other physicians by name who are alleged to have been negligent; the specific acts or omissions of negligence against each; and the identity of any agents, servants, employees or ostensible agents alleged to have been negligent.

In response, Plaintiffs aver that their Amended Complaint already meets the standard for pleadings at this stage of the proceedings and that Uniontown Hospital acted through its employees and/or agents and/or representatives who acted within the course and/or scope of their employment and/or authority.

Defendant Edward Slayden, M.D., moves to strike or for more specific pleading for Plaintiffs’ failure to set forth distinct allegations of negligence against Dr. Slayden, Uniontown Hospital, and its agents, identified and unidentified, who are board certified in different medical specialties; moves to strike John Doe #1 and John Doe #2 as Defendants; moves to strike the “catch-all” averments of non-specific allegations of negligence; and moves to strike the attorney verification.

Following a Motion to Amend Case Caption, this Court entered an Order dated June 8, 2020, amending the case caption to remove John Doe #1 and John Doe #2 as Defendants rendering this objection moot. In response to Doctor Slayden’s preliminary

objections, Plaintiffs requesting leave to file an amended verification to comply with Rules of Civil Procedure. As to the remaining preliminary objections of Doctor Slayden, Plaintiffs responded that the Amended Complaint provides a concise summary of the care that was provided by Uniontown Hospital and Doctor Slayden.

In ruling on preliminary objections, the Court must accept as true all well-pleaded, material and relevant facts. *Mellon Bank v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. 1994). “[C]onclusions of law, unwarranted inferences from the facts, argumentative allegations or expressions of opinion” need not be accepted as true. *Myers v. Ridge*, 712 A.2d 791, 794 (Pa. Cmwlth. 1998).

The issue before us demands a consideration of the requisite specificity of pleadings. Rule 1019(a) requires that “the material facts on which a cause of action or defense is based shall be stated in concise and summary form.” Pa.R.C.P. 1019(a); see also, *Laursen v. General Hospital of Monroe County*, 393 A.2d 761 (Pa. Super. 1978). Pleadings in a “fact pleading” jurisdiction, such as Pennsylvania, serve several functions: not only must pleadings put an opponent on notice of what he will be called upon to meet at trial, they must also frame the issues in an action so that the proof at trial may be restricted to those issues. See, *Connor v. Allegheny General Hospital*, 461 A.2d 600 (Pa. 1983).

The purpose of 1019(a) is to require the pleader to disclose the “material facts sufficient to enable the adverse party to prepare his case.” *Baker v. Rangos*, 324 A.2d 498, 505 (Pa. Super. 1974), citing *Landau v. Western Pennsylvania National Bank*, 282 A.2d 335, 339 (Pa. 1971). The term “material facts” has been defined as “those facts essential to support the claim” raised in the matter. *Baker v. Rangos*, 324 A.2d 498, 505 (Pa. Super. 1974). A pleading therefore must do more than simply give the adverse party fair notice of what his claim or defense is and the grounds upon which it rests; it should, instead, formulate the issue by fully summarizing the material facts. *Id.*

Furthermore, pleadings are to be construed against a pleader on the theory that he has stated his case as best he can; any conflicts or ambiguities are to be interpreted against him. See, *Philadelphia v. Pachelli*, 76 A.2d 436 (Pa. Super. 1950). A trial court has broad discretion in determining the amount of detail that must be averred in a pleading because the standard of pleadings set forth in Rule 1019 does not lend itself to precise measurement. *United Refrigerator Co. v. Applebaum*, 189 A.2d 253, 255 (Pa. 1963).

Both Uniontown Hospital and Doctor Slayden object to Plaintiffs pursuing claims against unnamed employees and/or agents and/or representatives of the Hospital. Plaintiffs provided no caselaw in support of their argument that they met the specificity requirements.

Even though it may not be necessary to plead every specific detail concerning an alleged agency or employment relationship, the Complaint must specify enough facts to permit defendants to understand the nature of the allegations and respond appropriately. At a minimum, Plaintiffs must identify any physician(s) who they are alleging to be employees, agents, or representatives of Uniontown Hospital and state their allegations of actions or omissions that Plaintiffs contend resulted in liability for which Defendant

Uniontown Hospital is being asked to accept legal responsibility. Allowing Plaintiff to broadly proclaim culpability of the entire hospital would extend beyond the holding of *Sokolsky v. Eidelman*, 93 A.3d 858 (Pa.Super. 2014), especially as it relates to medical doctors.

Accordingly, the Court sustains this preliminary objection from Uniontown Hospital and Dr. Slayden. Any claims of vicarious liability or agency against any independent unnamed physician, aside from Dr. Slayden, are dismissed, or alternatively, Plaintiff is granted sixty (60) days leave to file a Second Amended Complaint naming any additional physician who they believe are culpable and for who they seek to hold Uniontown Hospital vicariously liable. This ruling does not extend beyond physicians to other employees, agents, or representatives, such as nurses or aides, of Uniontown Hospital in accordance with *Sokolsky*, supra.

In support of his remaining preliminary objection, Defendant Doctor Slayden argues the applicability of *Connor v. Allegheny General Hospital*, 461 A.2d 600 (Pa. 1983). *Connor* has been used by the Pennsylvania courts to preclude general allegations in complaints. *Connor* stands for the proposition that general averments in a complaint should be remedied by preliminary objections, which operate to have the offending averment stricken and later amended. The court in *Connor* reasoned that this should result in eliminating surprise on the eve of trial.

“[I]n determining whether a particular paragraph in a complaint has been stated with the necessary specificity, such paragraph must be read in context with all other allegations in that complaint. Only then can the court determine whether the defendant has been put upon adequate notice of the claim against which he must defend.” *Paz v. Commonwealth, Department of Corrections*, 580 A.2d 452, 456 (Pa. Cmwlth. 1990).

Defendant Doctor Slayden’s preliminary objection in the nature of a motion to strike or, in the alternative, a motion for a more specific pleading, objects to Paragraphs 32(b), (h) and (i) of the Amended Complaint as being contrary to the pleading requirements of Pa.R.Civ.P. 1019(a). These paragraphs allege that Doctor Slayden’s care fell below or deviated from acceptable standards of care as follows:

Paragraph 32 directed to Defendant Slayden:

(b) Failing to recognize and/or diagnose the extent and/or severity of Helen Boord’s hemolysis and/or infection;

(h) After performing some form of an evaluation and/or examination on Helen Boord, and after conducting subsequent, periodic evaluations and/or examination on Helen Boord, failing to recognize and/or diagnose the extent and/or severity of Helen Boord’s hemolysis and or/infection; and

(i) Failing to properly respond to the extent and/or severity of Helen Boord’s hemolysis and/or infection.

See, Amended Complaint.

While the complaint must “disclose material facts sufficient to notify the adverse party of the claims it will have to defend against...there is no requirement to plead the evidence upon which the pleader will rely to establish those facts.” Com. by Shapiro v. Golden Gate National Senior Care, LLC, 194 A.3d 1010, 1029 (Pa. 2018). “In assessing whether particular paragraphs in a complaint satisfy this requirement, they must be read in context with all other allegations in the complaint to determine whether the defendant has been provided adequate notice of the claim against which it must defend.” Estate of Denmark ex rel. Hurst v. Williams, 117 A.3d 300, 306 (Pa.Super. 2015).

When the allegations lodged at Paragraphs 32 (b), (h), and (i) of Plaintiffs’ Amended Complaint are examined in their entirety and read in context with all factual averments, rather than in isolation, they are sufficient to provide Doctor Slayden adequate notice of the negligence claims against which he must defend. Accordingly, we must overrule the preliminary objection of Defendant Doctor Slayden in this motion to strike for lack of specificity.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 21st day of October, 2020, upon consideration of the Preliminary Objections filed by Defendants Uniontown Hospital and Edward Slayden, M.D., it is hereby ORDERED and DECREED that the preliminary objection is sustained regarding vicarious liability and/or agency with regard to any unnamed physician, alternatively, Plaintiff is granted sixty (60) days leave to file a Second Amended Complaint naming any additional physician who they believe are culpable and for who they seek to hold Uniontown Hospital vicariously liable. This ruling does not extend beyond physicians to other employees, agents, or representatives, such as nurses or aides, of Uniontown Hospital in accordance with Sokolsky, supra.

It is further ORDERED and DECREED that the preliminary objections of Doctor Slayden are sustained as to the improper verification and Plaintiff is granted sixty (60) days leave to file an amended verification; the preliminary objection of identifications of John Doe #1 and John Doe #2 are rendered moot by prior Court Order, and the preliminary objection regarding specificity of Paragraph 32 of the Amended Complaint is overruled.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
Prothonotary

WARMAN ABSTRACT & RESEARCH LLC

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Smithfield, PA 15478

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