

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

---

ANTHONY BERNARD QUINN	:	September Term 2005
	:	
Plaintiff,	:	No. 1601
	:	
v.	:	
	:	Commerce Program
THE HARTFORD INSURANCE COMPANY	:	
	:	Control Nos. 121168, 121412
Defendant.	:	

---

**ORDER**

**AND NOW**, this 23<sup>rd</sup> day of January 2006, upon consideration of Defendant's Preliminary Objections to Plaintiff's Amended Complaint (Control No. 121168), the response in opposition, the respective memoranda, all matters of record, and in accordance with the Opinion being filed contemporaneously with this Order, it hereby is **ORDERED** that said Preliminary Objections are **SUSTAINED** and the Amended Complaint **DISMISSED**.

Plaintiff's Preliminary Objections to Defendant's Preliminary Objections (Control No. 121412) are **OVERRULED**.

**BY THE COURT:**

---

**HOWLAND W. ABRAMSON, J.**

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

---

ANTHONY BERNARD QUINN	:	September Term 2005
	:	
Plaintiff,	:	No. 1601
	:	
v.	:	
	:	Commerce Program
THE HARTFORD INSURANCE COMPANY	:	
	:	Control Nos. 121168, 121412
Defendant.	:	

---

**MEMORANDUM OPINION**

***HOWLAND W. ABRAMSON, J.***

Currently before the Court are Defendant's Preliminary Objections to Plaintiff's Amended Complaint (Control No. 121168) and Plaintiff's Preliminary Objections to Defendant's Preliminary Objections (Control No. 121412). For the reasons fully set forth below, Defendant's Preliminary Objections are **sustained** and Plaintiff's Preliminary Objections are **overruled**.

**DISCUSSION**

For the purposes of reviewing preliminary objections in the form of a demurrer, "all well-pleaded material, factual averments and all inferences fairly deducible therefrom" are presumed to be true. Bourke v. Kazaras, 2000 Pa. Super. 29, 746 A.2d 642, 643 (2000). When presented with preliminary objections where the end result would be the dismissal of a cause of action, as here, a court should sustain the objections where "it is clear and free from doubt from all the facts pleaded that the pleader will be unable to prove facts legally sufficient to establish [its] right to relief." Id. Furthermore, it is essential that the face of the complaint indicate that its claims may not be sustained and that the law will not permit recovery. If there is any doubt, it should be resolved by the overruling of the demurrer. Put simply, the question presented by

demurrer is whether, on the facts averred, the law says with certainty that no recovery is possible. Bailey v. Storlazzi, 1999 Pa. Super. 97, 729 A.2d 1206, 1211 (1999). Such is the case at bar.

Plaintiff, an attorney, has filed the instant action seeking to recover attorney's fees and costs from Defendant Hartford Insurance Company ("Hartford"), for which he performed no work and which at no time requested or required his services. Such a claim may not lie under Pennsylvania law. "[T]he parties to litigation are responsible for their own fees unless otherwise provided by statutory authority, agreement of the parties or some other recognized exception." Equibank v. Miller, 422 Pa. Super. 240, 619 A.2d 336, 338 (1993). No such statutory or other legal authority exists which would warrant the award of attorney's fees in this matter, nor is there any agreement between the parties which would permit same.

Specifically, Plaintiff has asserted claims for *quantum meruit* (Count I) and tortious interference with contractual relations (Count II), each of which fail as a matter of law. With respect to Plaintiff's claim for *quantum meruit*, or unjust enrichment, such a claim requires that plaintiff plead the following elements: (1) benefits conferred on defendant by plaintiff, (2) appreciation of such benefits by defendant, and (3) acceptance and retention of such benefits under such circumstances that it would be inequitable for defendant to retain the benefit without payment of value.<sup>1</sup> Schenck v. K.E. David, Ltd., 446 Pa. Super. 94, 97-8, 666 A.2d 327, 328-9 (1995). Here, Plaintiff has failed to establish any benefit incurred by Hartford.

Moreover, Plaintiff has also failed to plead the requisite elements of a tortious interference claim. The elements of a cause of action for intentional interference with

---

<sup>1</sup> Where unjust enrichment is found, the law implies a contract, . . . which requires that the defendant pay to plaintiff the value of the benefit conferred. In short, the defendant makes restitution to the plaintiff in *quantum meruit*. Id.

contractual relations, whether existing or prospective, are as follows: (1) the existence of a contractual or prospective contractual relation between the complainant and a third party; (2) purposeful action on the part of the defendant, specifically intended to harm the existing relation, or to prevent a prospective relation from occurring; (3) the absence of privilege or justification on the part of the defendant; and (4) the occasioning of actual legal damage as a result of the defendant's conduct. Al Hamilton Contracting Co. v. Cowder, 434 Pa. Super. 491, 497, 644 A.2d 188, 191 (1994). At bar, Plaintiff has not only failed to demonstrate the existence of a contract between himself and a third party, namely Fire and Casualty Insurance Company of Connecticut, but also has failed to demonstrate that Hartford acted with the intent to specifically harm Quinn. As pled, all Plaintiff has established was the settlement of a subrogation action. Accordingly, Count II likewise fails as a matter of law.

Finally, Plaintiff's Preliminary Objections to Defendants' Preliminary Objections are overruled.<sup>2</sup>

### **CONCLUSION**

For the above stated reasons, Defendant's Preliminary Objections are **sustained** and the Amended Complaint **dismissed**. Plaintiff's Preliminary Objections to Defendants' Preliminary Objections are **overruled**.

**BY THE COURT:**

---

**HOWLAND W. ABRAMSON, J.**

---

<sup>2</sup> In light of the myriad pleading deficiencies, the court did not have to consider the exhibits to Defendant's Preliminary Objections in order to determine that Plaintiff has failed to state a claim upon which relief may be granted.