

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

TEMPLE UNIVERSITY - OF THE	:	December Term, 2000
COMMONWEALTH SYSTEM OF	:	
HIGHER EDUCATION	:	No. 353
Plaintiff	:	
v.	:	Commerce Program
NORMAN JOHANSON, M.D.,	:	
PHILADELPHIA HEALTH and	:	Control No. 091426
EDUCATION CORPORATION d/b/a MCP :	:	
HAHNEMANN UNIVERSITY	:	
Defendants.	:	

ORDER

AND NOW, this 16th day of November, 2001, upon consideration of the Preliminary Objections of Defendant Philadelphia Health and Education Corporation d/b/a MCP Hahnemann University ("MCPHU") to the Complaint of Plaintiff Temple University - of the Commonwealth System of Higher Education ("Temple") and in accordance with the Memorandum Opinion being filed contemporaneously with this Order, it is hereby ORDERED and DECREED as follows:

(1) The preliminary objection asserting insufficient specificity in a pleading of intentional interference with a contractual relationship is OVERRULED;

(2) The preliminary objection asserting legal insufficiency of a pleading of intentional interference with a contractual relationship is OVERRULED.

BY THE COURT:

JOHN W. HERRON, J.

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MEMORANDUM OPINION

Defendant Philadelphia Health and Education Corporation d/b/a MCP Hahnemann University (“MCPHU”) filed these preliminary objections to the complaint of Plaintiff Temple University - of the Commonwealth System of Higher Education (“Temple”). For the reasons stated below, the preliminary objection asserting insufficient specificity in a pleading of intentional interference with a contractual relationship is overruled. Further, the preliminary objection asserting legal insufficiency of a pleading is also overruled.

BACKGROUND

In September 1996, Temple and Defendant Norman Johanson, M.D. (“Johanson”) entered into an employment agreement which included a restrictive covenant that prohibited Johanson from practicing his specialty of orthopaedic surgery for one year following the termination of his employment with Temple within a ten mile radius of Temple University Hospital. The employment agreement also contained a waiver clause that provided for the waiver of a breach of the restrictive covenant if

Johanson paid a liquidated damages sum to Temple in an amount equal to the compensation paid to him by Temple during the last twelve months of his employment at Temple.

In October 1996, after being appointed to a new administrative position, Johanson entered into a revised second agreement which included the same restrictive covenant as before. In September 2000, Johanson ended his employment with Temple and began working for MCPHU at a location that is within ten square miles of Temple University Hospital. Also, Johanson has not tendered the waiver payment to Temple.

In December 2000, Temple filed this action pleading, *inter alia*, intentional interference with a contractual relationship against MCPHU. MCPHU has filed these timely preliminary objections.

DISCUSSION

I. The Preliminary Objection Asserting Insufficient Specificity in a Pleading of Intentional Interference with a Contractual Relationship (Count II) is Overruled.

MCPHU argues that the allegations in “Count II of Temple’s Complaint are totally devoid of the specificity required under Pa.R.C.P. 1019(f) and 1028(a)(3).” Def’s Mem. of Law at 2. To determine if a pleading meets Pennsylvania’s specificity requirements, a court must ascertain whether the allegations are “sufficiently specific so as to enable [a] defendant to prepare [its] defense.” Smith v. Wagner, 403 Pa.Super. 316, 319, 588 A.2d 1308, 1310 (1991) (citation omitted). See also In re The Barnes Found., 443 Pa. Super. 369, 381, 661 A.2d 889, 895 (1995) (“a pleading should ... fully summariz[e] the material facts, and as a minimum, a pleader must set forth concisely the facts upon which [a] cause of action is based”). Further, it is not necessary that the plaintiff identify the specific legal theory underlying the complaint. Burnside v. Abbot Laboratories, 351 Pa.Super. 264, 505 A.2d 973, 980 (1985)(citation omitted). Rather, it is the duty of the court to discover from the facts alleged in

a complaint the cause of action, if any, stated therein. Burnside, 505 A.2d at 980. Moreover, this court recognizes the proposition that the Rules of Civil Procedure are to be liberally interpreted. Pa.R.C.P. 126.

MCPHU argues that because Temple did not specifically aver the “time, place, individuals, conduct, etc. required under Pa.R.C.P. 1019(a)(f)” this court should sustain the preliminary objection. Def’s Mem. of Law at 3. Pa.R.C.P 1019(a) provides “[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form.” This rule has been construed to mean that the complaint must not only apprise the defendant of the claim being asserted, but it must also summarize the essential facts to support the claim. Dickerson v. Brind Truck Leasing, 362 Pa.Super. 341, 524 A.2d 908, 910 (1987) (citations omitted).

Here, a plain reading of Temple’s pleading against MCPHU reveals that its allegations are sufficiently specific. To begin with, Temple alleges that MCPHU knew or should have known the existence of a contractual relationship Temple had with Johanson. Pl’s Complaint at ¶¶ 24,30. Further, Temple argues that despite this knowledge, MCPHU employed Johanson in “a manner, time and place that violates the Restrictive Covenant.” Id. at ¶31. Moreover, the essential facts are alleged to support Temple’s claim of intentional interference with a contractual relationship. Specifically, Johanson was hired by MCPHU in September 2000, which at the time was allegedly in direct violation of the restrictive covenant in the October 1996 employment agreement Johanson had with Temple. Id. at ¶¶21, 22, 24. From these allegations, it is clear that MCPHU is able to prepare its defense to Temple’s claim of intentional interference of a contractual relationship. Therefore, this court overrules the preliminary objection.

II. The Preliminary Objection Asserting Legal Insufficiency of a Pleading of Intentional Interference of a Contractual Relationship (Count II) is Overruled.

MCPHU argues that Temple has failed to plead sufficient allegations to assert an intentional interference with a contractual relationship claim. In Pennsylvania, a successful claim for intentional interference with contractual relations must satisfy four elements:

(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 of justification on the part of the defendant; and (4) the occasioning of actual legal damage as a result of the defendants conduct.

Strickland v. University of Scranton, 700 A.2d 979, 985 (Pa.Super.Ct. 1997) (citation omitted).

Here, on the face of its complaint, Temple has pled all the necessary elements with the requisite specificity to survive a demurrer. To begin with, Temple pled the existence of a contractual relationship with Johanson executed in September and October 1996. Pl.'s Complaint at ¶¶ 11, 14, 15, 16, 30.

Further, Temple has alleged purposeful action on the part of MCPHU that specifically intended to harm the existing relationship Johanson had with Temple.

Specifically, presuming that Temple's factual averments are true, it can be fairly inferred from MCPHU's actions that by hiring Johanson one month after terminating his employment with Temple, MCPHU specifically intended to harm the existing relation Johanson had with Temple

- namely, allegedly violating the restrictive covenant that was still in effect.¹ Id. at ¶¶ 21, 22, 24, 31, 32. Moreover, since there is no evidence of privilege here with MCPHU and Temple has alleged actual legal damages in an amount in excess of \$50,000, the elements for this claim have been sufficiently pled.

CONCLUSION

For the reasons stated above, the preliminary objections asserting insufficient specificity in a pleading and legal insufficiency of pleading are both overruled.

BY THE COURT:

JOHN W. HERRON, J.

DATE: November 16, 2001

¹MCPHU argues that “Temple has not, and cannot, allege the required element of intent, necessary to plead ‘purposeful action on the part of the defendant specifically intended to harm the existing relationship.’” Def’s Mem. of Law at 5. Here, however, on the facts averred that *inter alia*, MCPHU hired Johanson well within the period covered by the restrictive covenant Johanson had with Temple, it cannot be stated conclusively that no recovery on Temple’s intentional interference with a contractual relation claim is possible. Therefore, this court must overrule the preliminary objection asserting legal insufficiency of a pleading. Bailey v. Storlazzi, 729 A.2d 1206, 1211 (Pa.Super.Ct. 1999).