

TAHEERA S. HEARD,

Plaintiff

: IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
: CIVIL ACTION – LAW

VS.

GENESIS ADMINISTRATIVE SERVICES
LLC,

Defendant

: NO. 2015-10406-IR

Ryan Allen Hancock, Esquire, on behalf of Plaintiff
James N. Boudreau, Esquire and Christiana L. Signs, Esquire, on behalf of Defendant

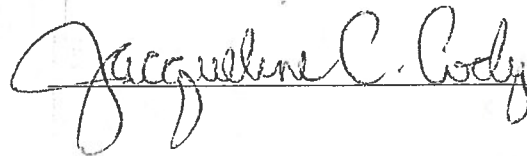
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OFFICE OF THE
PROBATIONARY
JUDGE
CHESTER CO. PA.

ORDER

AND NOW, this 22nd day of February, 2016, upon consideration of Defendant Genesis Administrative Services, LLC.'s Preliminary Objections to Plaintiff's Complaint, it is hereby ORDERED and DECREED as follows:

1. Defendant's preliminary objection in the nature of a demurrer to Count I of the Complaint is SUSTAINED. Count I of the Complaint is STRICKEN with prejudice.
2. Preliminary objections in the nature of a demurrer to Counts 2 and 3 of the Complaint are OVERRULED.¹ Defendant shall have 20 days to file an Answer to the Complaint.

BY THE COURT:



P.J.

¹ When ruling on preliminary objections in the nature of a demurrer, all well-pleaded allegations of material fact must be accepted as true as well as all inferences reasonably deductible. Wilson v. Pennsylvania Board. of Probation and Parole, 942 A.2d 270, 271 (Pa.Cmwlth. 2008).

Conclusions of law, unwarranted inferences from facts and argumentative allegations or expressions of opinion will not be accepted. Wilson, 942 A.2d at 271. The court must determine if the pleader may prevail in establishing a right to relief from proof of sufficient facts that are plainly clear from the complaint. Meyers v. Ridge, 712 A.2d 791, 794 (Pa.Cmwlth. 1998). Specifically, it should be determined whether it is certain from the face of the complaint that recovery is not supported under any legal theory. Schmidt v. Deutsch Larrimore Farnish & Anderson, LLP, 876 A.2d 1044, 1046 (Pa.Super. 2005). Preliminary objections should only be sustained in cases that are free and clear from doubt, meaning dismissal is only appropriate where it “appears[s] with certainty that the law would not permit recovery by the plaintiff upon the facts averred.” Werner v. Plater-Zyberk, 799 A.2d 776, 782-83 (Pa.Super. 2002) (citations omitted).

Counts II and III of Plaintiff’s Complaint allege that Defendant Genesis Administrative Services, LLC (Defendant) violated 18 Pa.C.S. § 9125(b) and (c), respectively. It does not appear with certainty from the Complaint that the law would not permit recovery by Plaintiff upon the facts averred. Therefore, Defendant’s preliminary objections are overruled.