

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MANORCARE OF EASTON PA LLC,
Plaintiff,

v.

JOSEPH A. NAGY,
Defendant

CIVIL ACTION
NO. 13-5957

JOSEPH A. NAGY and JOSEPH EUGENE
NAGY,
Counter-Plaintiffs,

v.

MANORCARE OF EASTON PA LLC;
KENNEDY, PC; NORTHAMPTON COUNTY;
AETNA, INC.; HEARTLAND HOSPICE; DR.
EDWARD CUMBO; DR. DILIP BERA;
BRAKELEY PARK CENTER; NEW
EASTWOOD CARE AND REHAB;
COMMONWEALTH OF PENNSYLVANIA; DR.
KEYURKUMAR DALSANIYA; DR. STEPHEN
KSIAZEK; and ST. LUKE'S WARREN
HOSPITAL,
Counter-Defendants

ORDER

AND NOW, this 25th day of June, 2015, upon consideration of several outstanding motions identified below, and as set forth in the accompanying memorandum opinion, it is hereby **ORDERED** as follows:

1. Counter-Defendants' Motion to Dismiss Any and All Claims Against Them and Any Other Entity, if Any, or, in the Alternative, for a More Definite Statement (Doc. #17) is **GRANTED IN PART AND DENIED IN PART** as follows:

- a. Count Nine of the Amended Counterclaim for legal malpractice (along with any other potential claim for professional liability) is **DISMISSED WITHOUT PREJUDICE** based on Counter-Plaintiffs' failure to file a certificate of merit.
 - b. Insofar as the Motion to Dismiss all other counts of the Amended Counterclaim is based on lack of service and improper joinder, it is **DENIED**.
 - c. The alternative request for a more definite statement is **DENIED**.
2. ManorCare (and any other Counter-Defendant who has already joined in the existing Motion to Dismiss the Amended Counterclaim (Doc. #17)) shall file a new motion with supplemental briefing setting forth any additional grounds for dismissal within 30 days.¹
 3. The Motion to Dismiss contained within Defendant's Answer, Amended Counterclaim, and Motion to Dismiss (Doc. #14) is **DENIED**.
 4. Defendant's/Counter-Plaintiffs' Motion to Strike (Doc. #18) is **DENIED**.
 5. Defendant's/Counter-Plaintiffs' Objection (Doc. #23), which appears to be a motion to strike Plaintiff's/Counter-Defendants' response to the above-referenced motion to strike, is **DENIED**.
 6. Defendant's/Counter-Plaintiffs' Discovery Plan Objection and Motion for Protective Order (Doc. #25) is **DENIED**.
 7. Defendant's/Counter-Plaintiffs' Motion to Deny ManorCare's Request for Admission, etc. (Doc. #29) is **DENIED**.

¹ Any counter-defendant newly served with the Amended Counterclaim following issuance of this order may as a matter of course file a motion or responsive pleading within the normal time frame allowed by the rules if that period is longer than the 30 days here allowed.

8. The Third Party Complaint (Doc. #30) is **DISMISSED AND STRICKEN**.
9. Defendant's/Counter-Plaintiffs' Motion for Leave to Serve Third Party Defendants (Doc. #31) is **DENIED AS MOOT** given the striking of the third-party complaint.
10. Defendant's/Counter-Plaintiffs' Motion for Judicial Relief Regarding Compulsory Counterclaim (Doc. #32) is also **DENIED AS MOOT** given the striking of the third-party complaint.
11. The Clerk's office shall issue summonses relating to the Amended Counterclaim (Doc. #14) for the following Counter-Defendants: Kennedy, PC; Northampton County; Aetna, Inc.; Heartland Hospice; Dr. Edward Cumbo; Dr. Dilip Bera; Brakeley Park Center; New Eastwood Care And Rehab; Commonwealth of Pennsylvania; Dr. Keyurkumar Dalsaniya; Dr. Stephen Ksiazek; and St. Luke's Warren Hospital.
12. Counter-Plaintiffs shall properly serve a copy of the Amended Counterclaim and summons, along with a copy of this order, on each of the above Counter-Defendants within 30 days.

BY THE COURT:

/s/ Jeffrey L. Schmehl
Jeffrey L. Schmehl, J.