

The underlying facts of this case involve a motor vehicle accident which occurred in 1976. Suit was brought at that time, after which a defense verdict was rendered, appeals were taken, and the matter dismissed. Following the plaintiff's failure to prevail in the original lawsuit, plaintiff decided to bring this action against every lawyer, law firm, and insurance company who had anything to do with the prior action, alleging diverse claims such as breach of contract, bad faith and mail fraud. Plaintiff's original complaint was dismissed for failure to state a claim upon which relief could be granted. Plaintiffs's amended complaint was dismissed for the same reason.

The defects in the voluminous complaint are numerous. For example, Rule 1019(h) of the Pennsylvania Rules of Civil Procedure requires that where a claim is based upon a writing, the writing must be attached. Paragraph 69 of the amended complaint states that the contracts upon which the claims are made are "missing." Hence, those claims must fail. Furthermore, plaintiff's complaint was properly dismissed on the remaining counts for lack of specificity as required by Pa.R.C.P. 1028. Because the plaintiff has already had a chance to remedy the defects in her pleadings, and has failed to do so, she need not be given endless opportunities to state a claim. The amended complaint was properly dismissed with prejudice. As the Superior Court explained in Feingold v. Hill, (Pa. Super. 1987), 360 Pa. Super. 539, 521 A.2d 33, an action in which plaintiff's counsel was the plaintiff:

Blind suspicions and unsupported accusations simply do not state a cause of action pursuant to any theory of tort recovery. Even our present liberalized system of pleading requires that the material facts upon which a cause of action is premised be pled with sufficient specificity so as to set forth the prima facie elements of the tort or torts alleged. *Baker v. Rangos*, 229 Pa. Super. 333, 324 A.2d 498, 505 (1974); Pa.R.C.P. 1019(a)....

Appellant's second contention... is, in effect, an argument in the alternative. Appellant contends that the complaint, if legally insufficient, should

not have been dismissed with prejudice before granting appellant at least one opportunity to amend. We disagree.

The right to amend should be liberally granted, absent an error of law or resulting prejudice to an adverse party. *Connor v. Allegheny General Hospital*, 501 Pa. *550 306, 461 A.2d 600, 602 (1983); Pa.R.C.P. 1033. However, the right to amend is not absolute. Where the initial pleading reveals that the complaint's defects are so substantial that amendment is not likely to cure them, and that the prima facie elements of the claim or claims asserted will not be established, the right to amend is properly withheld. See *Spain v. Vicente*, 315 Pa. Super. 135, 461 A.d. 833, 837 (1983); also see *Behrend v. Yellow Cab Company*, 441 Pa. 105, 271 A.d. 241, 243 (1970). Furthermore, the decision to grant or deny leave to amend is within the sound discretion of the trial court, and will not be reversed absent a clear abuse of discretion. *Junk v. East End Fire Dep't*, 262 Pa. Super. 473, 396 A.d. 1269, 1277 (1978).

360 Pa. Super. 539, 549-50, 521 A.d. 33, 38-39.

For all of the above reasons, this court's orders dated September 6, 2000, sustaining the defendants' preliminary objections, and dismissing plaintiff's amended complaint with prejudice, were proper and should be affirmed.

By the Court:

Myrna Field, J.