

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

MANAIN FERNANDEZ RAMIREZ,)	
Plaintiff,)	
)	
v.)	CAUSE NO.: 2:20-CV-213-JPK
)	
N AND M TRANSFER CO., INC., and)	
GARY J. HOEFS,)	
Defendants.)	

OPINION AND ORDER

This matter is before the Court on Defendants’ Unopposed Motion for Leave to Join Party and File Amended Counterclaim [DE 24], filed by Defendants N & M Transfer Co., Inc. and Gary J. Hoefs on December 29, 2020. In the instant motion, Defendants seek leave file an Amended Counterclaim and to join Plaintiff Manain Fernandez Ramirez’s employer, Prestige Transport, LLC, as a counter-defendant to this matter. For the following reasons, the motion is granted in part and denied as moot in part.

On January 6, 2021, the Court took the instant motion under advisement and ordered Defendants to file a supplemental jurisdictional statement properly alleging the citizenship of Prestige Transport, LLC. On January 7, 2021, Plaintiff filed a joint motion requesting leave to file an amended complaint, and further requesting that deadlines be set for Defendants to file an answer and counterclaim to the amended complaint and for Plaintiff to answer or otherwise respond to the answer and counterclaim. On January 8, 2021, the Court granted this motion and set the deadlines per the request of the parties. On January 11, 2021, Plaintiff filed his First Amended Complaint at Law, superseding the original Complaint at Law and mooting Defendants’ request for leave to file an amended counterclaim. On January 12, 2021, Defendants filed a supplemental jurisdictional statement properly alleging the citizenship of Prestige Transport, LLC (subject to any future

challenge). On January 19, 2021, Defendants filed their Answer to Plaintiff's First Amended Complaint at Law and Amended Counterclaim. The Court addresses the pending request for leave to join Prestige Transport, LLC as a counter-defendant to this matter below.

On December 17, 2020, Defendants filed their original Answer and Counterclaim against Plaintiff. In the instant motion, Defendants explain that pleading their Counterclaim was compulsory under Federal Rule of Civil Procedure 13, which states that “[a] pleading must state as a counterclaim any claim that--at the time of its service--the pleader has against an opposing party if the claim: (A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim.” Fed. R. Civ. P. 13(a). Pursuant to Rule 13, joinder of a person as a party to a counterclaim is governed by Rules 19 and 20. Fed. R. Civ. P. 13(h).

Pursuant to Rule 20, in turn, “[p]ersons . . . may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences.” Fed. R. Civ. P. 20(a)(2). Defendants state that Prestige Transport, LLC is vicariously liable for the allegedly negligent acts of Plaintiff at issue in the Counterclaim and, further, that Prestige Transport, LLC also has its own separate liability arising out of the accident underlying the claims in this matter. As such, Defendants state that joinder of Prestige Transport, LLC is appropriate under Rule 20, as the claims arise out of the same occurrence. In further support of their motion, Defendants state that it is necessary to include Prestige Transport, LLC as a party to this matter to ensure that Defendants have an opportunity for complete relief of their Counterclaim. Finally, Defendants assert that it is necessary to join Prestige Transport, LLC, as forcing Defendants to litigate their claims in another action in Indiana would create needless multiplicity of suits and disregard the primary objectives of the compulsory counterclaim rule.

Having reviewed the motion, finding it well taken, and noting that Plaintiff does not object to the relief sought, the Court hereby **GRANTS in part** and **DENIES as moot in part** Defendants' Unopposed Motion for Leave to Join Party and File Amended Counterclaim [DE 24]. The Court **GRANTS** Defendants' request to join Prestige Transport, LLC as a counter-defendant to this matter. The Court **DENIES as moot** Defendants' request to file an Amended Counterclaim to the original Complaint at Law.

So ORDERED this 19th day of January, 2021.

s/ Joshua P. Kolar

MAGISTRATE JUDGE JOSHUA P. KOLAR
UNITED STATES DISTRICT COURT