

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

GREG GAST and MARY BETH GAST,)
Plaintiffs,)

vs.)

1:09-cv-0465-RLY-JMS

DRAGON ESP, LTD., CRENSHAW REAL)
PROPERTIES, IV, LTD., THE FULTON)
COUNTY PLAN COMMISSION, THE)
MODERN GROUP GP-SUB, INC., and W.)
CRENSHAW MANAGEMENT, LLC,)
Defendants.)

**ENTRY ON THE MODERN GROUP GP-SUB, INC.’S AND W. CRENSHAW
MANAGEMENT, LLC’S MOTION TO DISMISS FOR LACK OF PERSONAL
JURISDICTION**

Defendants, The Modern Group GP-SUB, Inc. (“Modern”) and W. Crenshaw Management LLC (“Crenshaw Management”) (collectively “Defendants”), move to dismiss this action for lack of personal jurisdiction pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure. For the reasons set forth below, the court **DENIES** the motion.

I. Background

Dragon ESP, Ltd.(“Dragon”) and Crenshaw Real Properties IV, LTD. are Texas limited partnerships. Dragon owns a heavy manufacturing facility (the “Dragon Facility”) in Fulton County, Indiana, and Crenshaw Real Properties owns the real estate upon which the Dragon Facility sits. (Complaint ¶¶ 7-8). The thrust of Plaintiffs’

Complaint is that the Dragon and Crenshaw Real Properties operate the Dragon Facility in a manner that, *inter alia*, violates the Comprehensive Environmental Response, Compensation, and Liability Act and various state laws.

Modern is a corporation organized under the laws of Texas and has its principal place of business in Texas. (Affidavit of Casey Crenshaw in Support of Modern Group GP-SUB, Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction ("Modern Aff."), ¶ 3). Crenshaw Management is a limited liability company organized under the laws of Texas, with its principal place of business in Texas. (Affidavit of Casey Crenshaw in Support of W. Crenshaw Management, LLC's Motion to Dismiss for Lack of Personal Jurisdiction ("Crenshaw Management Aff."), ¶ 3). Modern is the sole general partner of Dragon, and its principal place of business is located in Texas. (Plaintiffs' Ex. A). Crenshaw Management is the sole general partner of Crenshaw Real Properties, and its principal place of business is located in Texas. (Plaintiffs' Ex. B). Modern owns a 1% interest in Dragon, and Crenshaw Management owns a 4% interest in Crenshaw Real Properties. (Modern Aff. ¶ 3; Crenshaw Management Aff. ¶ 3).

II. Discussion

Defendants move to dismiss this action for lack of personal jurisdiction. They claim that they have no minimum contacts with the State of Indiana and that they therefore should not be expected to be haled into court here. The court disagrees.


Courts in this district have found that personal jurisdiction over a partnership is sufficient to establish personal jurisdiction over the general partners. *See Que Sera*

Promotions v. Poughkeepsie Ford, Inc., 2005 WL 2896703, at *4 (N.D. Ind. Nov. 2, 2005); *Wolfson v. S & S Secs.*, 756 F.Supp. 374, 377 (N.D. Ill. 1991); *Felicia, Ltd. v. Gulf A. Barge, Ltd.*, 555 F.Supp. 801, 805-06 (N.D. Ill. 1983). The Texas Code governing limited partnerships supports this proposition. Under the express provisions of Texas Code Section 153.152, a limited partner who is a general partner is treated as a general partner. *See* TEX. CODE § 153.153. A general partner in a limited partnership is treated as a partner in a partnership and subject to personal liability to the partnership creditors. *See* TEX. CODE § 153.152(b). Thus, under the Texas Code, which governs Modern and Crenshaw Management as general partners of Texas limited partnerships, Modern and Crenshaw Management can be held liable for the partnership's actions. Therefore, Modern and Crenshaw Management should expect to be haled into court in any state, including Indiana, in which Dragon and Crenshaw Real Property are subject to jurisdiction. Defendants' motion to dismiss for lack of personal jurisdiction is **DENIED**.

III. Conclusion

For the reasons set forth above, the court **DENIES** Modern Group GP-SUB, Inc.'s and W. Crenshaw Management, LLC's Motion to Dismiss for Lack of Personal Jurisdiction (Docket # 15).

SO ORDERED this 30th day of March 2010.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

Electronic Copies to:

P. Adam Davis
DAVIS & SARBINOFF LLP
adavis@d-slaw.com

James M. Hinshaw
BINGHAM MCHALE LLP
jhinshaw@binghammchale.com

Kenneth J. Munson
BINGHAM MCHALE LLP
kmunson@binghammchale.com

Rafael A. Sanchez
BINGHAM MCHALE LLP
rsanchez@binghammchale.com