

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	)	
<b>COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. RWT-07-CV-2612</b>
	)	
<b>BLOCKBUSTER INC.,</b>	)	
	)	
<b>Defendant,</b>	)	
	)	
	)	
	)	
<b>BLOCKBUSTER INC.,</b>	)	
	)	
<b>Third-Party Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>VENTURI STAFFING PARTNERS</b>	)	
	)	
<b>Third-Party Defendant.</b>	)	

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**THIRD-PARTY COMPLAINT**

Defendant/Third-Party Plaintiff Blockbuster, Inc., by and through its attorneys Morgan, Lewis & Bockius LLP, brings this Third-Party Complaint against Third-Party Defendant Venturi Staffing Partners and states as follows:

**THE PARTIES**

1. Blockbuster Inc. (“Blockbuster”) is a Delaware corporation which operates a Distribution Center in Gaithersburg, Maryland (the “Gaithersburg facility”).

2. Venturi Staffing Partners (“Venturi”) is a Delaware corporation and, during all relevant times, was continuously doing business in the State of Maryland, as well as other jurisdictions.

### **JURISDICTION AND VENUE**

3. Blockbuster re-alleges and incorporates by reference paragraphs 1 and 2 as if fully set forth herein.
4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §1367 because the claims in this Third-Party Complaint are so related to the claims brought by the Plaintiff United States Equal Employment Opportunity Commission (“Plaintiff EEOC”) against Blockbuster that they form part of the same case or controversy under Article III of the United States Constitution.
5. Venue is proper in this district under 28 U.S.C. §1391(b) because, at all relevant times, Venturi transacted business in this District and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this District.
6. This Court has personal jurisdiction over Venturi, as Venturi transacted business in this District, including the transactions giving rise to this action.
7. Venturi is subject to service of process of the Court pursuant to Federal Rules of Civil Procedure 4(K)(1)(a) and 4(K)(1)(b).

### **BACKGROUND**

8. Blockbuster re-alleges and incorporates by reference paragraphs 1 to 7 as if fully set forth herein.
9. Blockbuster’s Gaithersburg facility distributes DVD rentals to Blockbuster’s Online customers.

10. Venturi entered into contractual agreement with Blockbuster to provide temporary contractors or “resources” to Blockbuster at its Gaithersburg facility effective June 1, 2004.
11. Venturi agreed to defend, hold harmless, and indemnify Blockbuster against any loss arising from any employment claim based on an allegation that Blockbuster is an employer.
12. The Gaithersburg facility opened in November 2004.
13. Venturi subcontracted its services to a third party known as Express Personnel.
14. At all times relevant to this lawsuit, Express Personnel acted as an agent of Venturi.
15. Venturi and Express Personnel hired temporary contractors and assigned them to the Gaithersburg facility.
16. The Charging Parties and alleged class members in this action were hired by Express Personnel and assigned to the Gaithersburg facility by Express Personnel.
17. During the period relevant to this lawsuit, neither the Charging Parties nor most of the alleged class members were employed by Blockbuster.
18. Express Personnel was the statutory employer of the Charging Parties and the alleged class members, because at all relevant times, it had at least fifteen (15) employees and engaged in an industry affecting commerce within the meaning of Title VII, 42 U.S.C. § 2000e(b), (g), and (h).
19. Venturi and Express Personnel were responsible for the wages, taxes, insurance, and other employment obligations of its employees, including the Charging Parties and the alleged class members.

20. Express Personnel had a harassment policy which required that complaints be brought to the attention of Express Personnel and Blockbuster to enable Blockbuster to take remedial action.
21. Express Personnel's office manager, Cynthia "Cinnie" Brown, took an active role in the administration and working arrangements of the temporary personnel assigned to the Gaithersburg facility.
22. As part of her duties, Ms. Brown received, processed, and investigated employee concerns and complaints, including complaints of sexual, racial and national origin, and retaliatory harassment and discrimination.
23. Express Personnel was also responsible for the discipline and termination of its employees who were assigned to the Gaithersburg facility.
24. The contract between Blockbuster and Venturi continued through September 18, 2005.
25. On or about September 26, 2007, Plaintiff EEOC filed a complaint against Blockbuster for alleged sexual, race and national origin, and retaliatory harassment and discrimination in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Blockbuster denies these allegations.
26. The EEOC complaint seeks relief on behalf of Hispanic and/or female employees that were assigned to work at the Gaithersburg facility.
27. On December 21, 2007, Blockbuster filed its Answer and Affirmative Defenses.
28. Blockbuster sought, and did not receive, indemnification from Venturi based on the EEOC's claims.

## **COUNT ONE - INDEMNIFICATION**

29. Blockbuster re-alleges and incorporates by reference paragraphs 1 to 28 as if fully set forth herein.
30. The Title VII allegations made by Plaintiff EEOC arise out of the placement of Venturi and/or Express Personnel employees assigned to the Gaithersburg facility.
31. Venturi subcontracted with Express Personnel, and as such, is jointly and severally liable for all damages suffered by Blockbuster as a result of the actions and/or omissions of Express Personnel.
32. Pursuant to the June 1, 2004 Agreement, Venturi is obligated to protect, defend, and indemnify Blockbuster from claims that arise from or relate to any employment claim, including claims that arise out of Title VII of the Civil Rights Act.
33. If Blockbuster is found to be liable in whole or in part to the Plaintiff EEOC, then pursuant to the contractual relationship among the parties, Venturi is liable for indemnification to Blockbuster for any liability on its part to the EEOC.

WHEREFORE, Defendant/Third Party Plaintiff Blockbuster, Inc. prays that this Court enter judgment:

1. Declaring that Venturi (i) has a duty to indemnify Blockbuster for all amounts that Blockbuster is legally required to pay or may be required to pay in the future in any lawsuit brought in connection with Venturi and/or Express Personnel's employees assigned to the Gaithersburg facility; (ii) is obligated to pay such amounts with interest thereon; and (iii) is obligated to reimburse Blockbuster for all attorneys' fees and costs it has incurred and may incur in any future lawsuits brought in connection with Venturi and/or Express Personnel's employees assigned to the Gaithersburg facility.

2. Awarding Blockbuster its attorneys' fees, costs, and expenses of this action with interest thereon.
3. Granting such other and further relief as the Court deems just and equitable.

Dated: November 14, 2008

Respectfully submitted,

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/s/

Grace E. Speights (Bar No. 05254)  
202-739-5189

Lexer I. Quamie (Bar No. 17229)  
202-739-5955

Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
202-739-3001 (fax)

*Counsel for Blockbuster Inc.*