

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EQUAL EMPLOYMENT	:	Case No. RWT-07-CV-2612
OPPORTUNITY COMMISSION,	:	
	:	
Plaintiff,	:	[Judge Roger W. Titus]
	:	[Magistrate Judge Charles B. Day]
	:	
v.	:	
	:	
BLOCKBUSTER INC.,	:	
	:	
Defendant and Third-Party	:	
Plaintiff,	:	
	:	
v.	:	
	:	
VENTURI STAFFING PARTNERS,	:	<u>FOURTH-PARTY PLAINTIFF</u>
	:	<u>VENTURI STAFFING PARTNERS'</u>
Third-Party Defendant and	:	<u>COMPLAINT</u>
Fourth-Party Plaintiff,	:	
	:	
v.	:	
	:	
KEVIN ANDREW LENEAR, LENCO,	:	
INC., and EXPRESS SERVICES, INC.,	:	
dba EXPRESS PERSONNEL SERVICES,	:	
EXPRESS PERSONNEL, AND EXPRESS	:	
PERSONNEL OF TOWSON	:	
	:	
Fourth-Party Defendants.	:	

Third-Party Defendant/Fourth-Party Plaintiff Venturi Staffing Partners, by and through its attorneys, brings this Fourth-Party Complaint against Fourth-Party Defendants Kevin Andrew Lenear, Lenco, Inc., and Express Services, Inc., dba Express Personnel Services, Express Personnel, and Express Personnel of Towson.

THE PARTIES

1. Venturi Staffing Partners ("Venturi") is a Delaware corporation and, during all relevant times, was doing business in the State of Maryland.

2. Kevin Andrew Leneer ("Leneer") is an individual who resides at 292 Whistling Pine Road, Severna Park, Maryland, 21446.

3. Lenco, Inc. ("Lenco") is a Maryland corporation with a principal office located at 292 Whistling Pine Road, Severna Park, Maryland, 21446. Leneer is the President of Lenco.

4. Express Services, Inc., dba Express Personnel Services, Express Personnel, and Express Personnel of Towson ("Express Headquarters") is a Delaware corporation headquartered in Oklahoma City, Oklahoma. On information and belief, during all relevant times, Express Headquarters was continuously doing business in the State of Maryland, as well as other jurisdictions. On information and belief, Leneer, Lenco, and Express Headquarters were collectively operating as "Express Personnel" and "Express Personnel of Towson" in Maryland. (Hereinafter, Leneer, Lenco, and Express Headquarters are sometimes collectively referred to as "Express Personnel.")

JURISDICTION AND VENUE

5. Venturi re-alleges and incorporates by reference paragraphs 1-4 above as if fully set forth herein.

6. 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 Third-Party Plaintiff Blockbuster Inc. ("Blockbuster") against Venturi that they form part of the same case or controversy under Article III of the United States Constitution.

7. Venue is proper in this district under 28 U.S.C. § 1391(b) because, at all relevant times, Lencar, Lenco and Express Personnel 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.

8. This Court has personal jurisdiction over Lencar, Lenco and Express Personnel, as they transacted business in this District, including the transactions giving rise to this action.

9. Lencar, Lenco and Express Personnel are subject to service of process of the Court pursuant to Federal Rule of Civil Procedure 4(K)(1)(A) and 4(K)(1)(B).

BACKGROUND

10. Venturi re-alleges and incorporates by reference paragraphs 1 to 9 above as if fully set forth herein.

11. Venturi entered into a Services Agreement (the "Agreement"), effective June 1, 2004, to provide independent contractors or "Resources" for temporary staffing needs of Blockbuster at Blockbuster's Gaithersburg, Maryland facility (the "Gaithersburg facility").

12. Venturi entered into a contract with Express Personnel through which Venturi subcontracted with Express Personnel to provide independent contractors to Blockbuster, effective November 22, 2004.

13. The contract between Blockbuster and Venturi continued through September 18, 2005.

14. During the period of the Blockbuster/Venturi Agreement, Express Personnel hired individuals and assigned them to the Gaithersburg facility.

15. On or about September 26, 2007, Plaintiff Equal Employment Opportunity Commission ("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").

16. The EEOC complaint seeks relief on behalf of Hispanic and/or female employees who may have been assigned by Express Personnel to work at the Gaithersburg facility (hereinafter, the "Charging Parties and alleged class members"). The EEOC complaint alleges that the purported harassment and discrimination of the Charging Parties and alleged class members was committed by supervisors employed directly by Blockbuster.

17. The Charging Parties and possibly other alleged class members were hired by Express Personnel and assigned to the Gaithersburg facility by Express Personnel.

18. During the period relevant to this lawsuit, neither the Charging Parties nor the alleged class members were employed by Venturi.

19. Express Personnel was a statutory employer of the Charging Parties and possibly others among the alleged class members because, at all relevant times, it had at least fifteen (15) employees engaged in an industry affecting commerce within the meaning of Title VII, 42 U.S.C. § 2000e(b), (g), and (h).

20. Express Personnel was responsible for the wages, taxes, insurance, and other obligations of its employees, including the Charging Parties and the alleged class members placed at the Gaithersburg facility by Express Personnel. On information and belief, Express Headquarters handled payroll for such employees, supplied anti-harassment and other employment policies to them, and was kept updated by Lenear and Express Personnel's office manager, Cynthia "Cinnie" Brown, on what was occurring with respect to issues involving such employees.

21. Ms. Brown played a role in the administration and working arrangements of the independent contractors assigned by Express Personnel to the Gaithersburg facility.

22. As part of her duties, Ms. Brown received, processed, and investigated Express Personnel 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. On or about November 14, 2008, Blockbuster filed its Third-Party Complaint against Venturi seeking indemnification from Venturi based on the EEOC's claims. Blockbuster's Third-Party Complaint alleges that since "Venturi subcontracted with Express Personnel," Venturi is "jointly and severally liable for all damages suffered by Blockbuster as a result of the actions and/or omissions of Express Personnel."

25. Venturi has denied that Blockbuster is entitled to indemnification.

COUNT I -- INDEMNIFICATION

26. Venturi re-alleges and incorporates by reference paragraphs 1 to 25 above as if fully set forth herein.

27. Although Venturi denies that Blockbuster is entitled to indemnification on any basis, if Venturi is found liable to Blockbuster for indemnification based on the conduct of Express Personnel, then Express Personnel is jointly and severally liable for all damages suffered by Venturi.

WHEREFORE, Third-Party Defendant/Fourth-Party Plaintiff Venturi Staffing Partners prays that this Court enter judgment:

1. Declaring that Lenear, Lenco and Express Headquarters (i) have a duty to indemnify Venturi for all amounts that Venturi is legally required to pay or may be required to pay in the future in any lawsuit brought in connection with Express Personnel's employees assigned to the Gaithersburg facility; (ii) are obligated to pay such amounts with interest thereon; and (iii) are obligated to reimburse Venturi for all attorneys' fees and costs it has incurred and may incur in any future lawsuits brought based on Express Personnel's acts or omissions at the Gaithersburg facility.
2. Awarding Venturi its attorneys' fees, costs, and expenses of this action with interest thereon, to the extent such fees, costs, and expenses are attributable to Blockbuster's claim for indemnification based on Express Personnel's acts or omissions.
3. Granting such other relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Eric Hemmendinger

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*Attorneys for Fourth-Party Defendant Venturi
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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Debra Michele Lawrence, Esq.
Ronald L. Phillips, Esq.
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and will be served via electronic mail upon the following:

Elizabeth Scott Wood
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and will be served via process server upon the following:

Kevin Andrew Lenear
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Lenco, Inc.
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/s/Eric Hemmendinger