

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERTO VIERA,

Plaintiff,

-against-

ANTHONY GALLO, et al.,

Defendants.

24-CV-8731 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, United States District Judge:

Plaintiff, who is proceeding *pro se*, brings this action under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e to 2000e-17, asserting claims for race, color, and national origin discrimination, and claims of retaliation for his prior employment discrimination action, *Viera v. Gallo*, No. 19-CV-4110 (JPO) (S.D.N.Y. Aug. 30, 2019). The complaint could also be liberally construed as asserting claims under 42 U.S.C. § 1981, the New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297, and the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 to 131. By order dated November 21, 2024, the court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.

DISCUSSION

A. Employer Petro Home Services

Plaintiff invokes Title VII and alleges facts showing that he filed an administrative charge with the Equal Employment Opportunity Commission against his employer, Petro Home Services. In light of Plaintiff’s *pro se* status and clear intention to assert claims against Petro Home Services, the Court construes the complaint as asserting claims Petro Home Services, and directs the Clerk of Court, under Rule 21 of the Federal Rules of Civil Procedure, to amend the

caption to add Defendant Petro Home Services. This amendment is without prejudice to any defenses Petro Home Services may wish to assert.

B. Service on Defendants

Because Plaintiff has been granted permission to proceed IFP, he is entitled to assistance from the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of the following defendants: Petro Home Services, Anthony Gallo, Michael Zvonik, David Nathaniel, Jerry McDonald, Megan Medura and Margarita Maneiro. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

¹Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

CONCLUSION

The Clerk of Court is directed to add as a Defendant Petro Home Services. *See* Fed. R. Civ. P. 21.

The Clerk of Court is further instructed to issue summonses for Defendants Petro Home Services, Anthony Gallo, Michael Zvonik, David Nathaniel, Jerry McDonald, Megan Medura and Margarita Maneiro, complete the USM-285 forms with the addresses for Defendants, and deliver to the U.S. Marshals Service all documents necessary to effect service.

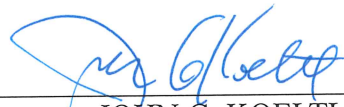
The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated:

New York, New York

11/21/24



JOHN G. KOELTL
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Petro Home Services
55-60 58th Street
Maspeth, NY 10475
2. Anthony Gallo
Petro Home Services
55-60 58th Street
Maspeth, NY 10475
3. Michael Zvonik
Petro Home Services
55-60 58th Street
Maspeth, NY 10475
4. David Nathaniel
Petro Home Services
55-60 58th Street
Maspeth, NY 10475
5. Jerry McDonald
Petro Home Services
55-60 58th Street
Maspeth, NY 10475
6. Megan Medura
Petro Home Services
55-60 58th Street
Maspeth, NY 10475
7. Margarita Maneiro
Petro Home Services
55-60 58th Street
Maspeth, NY 10475