

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CLARK TRUCKING & EXCAVATION, LLC –	:	
NORTHEAST DIVISION,	:	DOCKET NO. 12-00,695
Plaintiff	:	CIVIL ACTION – LAW
	:	
vs.	:	
	:	
BEO SERVICES GROUP, LLC,	:	
Defendant	:	

OPINION AND ORDER

AND NOW, this 1st day of August, 2012, after granting the parties a sixty (60) day continuance for the purposes of discovery, the Court has received no communication from the parties regarding the preliminary objections currently pending before it. Thus, pursuant to the Court’s May 30, 2012 Order, the Court will rule on the preliminary objections filed by Defendant BEO Services Group on April 23, 2012. Therefore, it is hereby ORDERED and DIRECTED that Defendant’s objections are SUSTAINED in part and OVERRULED in part. In particular, Defendant’s objection as to nonjoinder of a necessary party is SUSTAINED, Defendant’s objections as to a demurrer to Counts I (Breach of Oral Contract) and II (Breach of Fiduciary Duty) are OVERRULED without prejudice, and Defendant’s objection as to costs and attorneys’ fees are SUSTAINED. This Court will further address Defendant’s objection as to nonjoinder of a necessary party.

In this instance, the Court finds that EQT should be joined as an indispensable party, in particular, as an additional defendant, in the above-captioned matter. Defendant raises this objection pursuant to Pa.R.C.P. 1028(a)(5), nonjoinder of a necessary party. Pennsylvania Rule of Civil Procedure 2232(c) provides that “the court may order the joinder of any additional person who could have joined or who could have been joined in the action and may stay all proceedings until such person has been joined.” *Id.* An additional defendant may be joined if

the party may be “liable to or with the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action against the joining party is based.” Pa. R.C.P. 5525(a)(4). Trial courts should construe the rule permitting joinder of additional defendants broadly so that multiple suits are avoided by settling all claims out of a particular transaction or occurrence at once. *202 Island Car Wash, L.P. v. Monridge Construction, Inc.*, 913 A.2d 922, 926 (Pa. Super. Ct. 2006). Our Superior Court has held:

[i]n a joinder analysis, the key inquiry is whether the additional defendant’s liability is related to the plaintiff’s claim against the original defendant. If so, then joinder is permissible because joinder allows the court to evaluate all possible sources of the plaintiff’s harm in one action, regardless of who asserted the specific theory of harm.

Id. at 927.

In this matter, the Court finds that EQT should be joined as an additional defendant. The instant litigation arises out of the relationship between Clark Trucking, BEO, and EQT. Both Clark and BEO provided services such as water hauling, frac tank rental, and gas buster rental to EQT. When this arrangement was initially negotiated, Plaintiff alleges that the parties agreed that Clark was to bill BEO for the services provided to EQT. Then, BEO would bill EQT for the services provided by Clark to EQT. The parties agreed to this arrangement because, at the time, BEO had a Master Service Agreement with EQT and Clark did not. A major component of this litigation arises out of the relationships between these three companies and whether or not payment was made to Plaintiff for its services. The Court believes EQT is integral to this litigation and may be a source of Plaintiff’s harm. Therefore, the Court finds that EQT is a necessary party and must be joined as an additional defendant in this litigation because Plaintiff’s complaint arises out of transactions in which both BEO and Clark were actively involved.

Plaintiff shall file an amended complaint within twenty (20) days, joining EQT as a necessary party defendant.

BY THE COURT,

Date

Richard A. Gray, J.

RAG/abn

cc: Joshua J. Cochran, Esquire
Michael G. Leonard, Esquire
Gary L. Weber, Esquire