

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

ALICE ACHEE-SHARP,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION
LENEXA REAL ESTATE PORTFOLIO PARTNERS, LLC,)	
)	No. 19-2100-KHV
)	
Defendant.)	
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)	
LENEXA REAL ESTATE PORTFOLIO PARTNERS, LLC,)	
)	
Third-Party Plaintiff,)	
)	
v.)	
)	
SNOWMEN 365, LLC,)	
)	
Third-Party Defendant.)	
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MEMORANDUM AND ORDER

Alice Achee-Sharp filed suit against Lenexa Real Estate Portfolio Partners, LLC (“Lenexa Real Estate”) for personal injuries which she sustained when she slipped and fell on ice in its parking lot. Lenexa Real Estate asserts a third-party claim for indemnification against Snowmen 365, LLC, alleging that (1) it failed to procure insurance coverage under the parties’ contract and (2) it has refused to defend or indemnify Lenexa Real Estate against plaintiff’s claim. This matter is before the Court on [Third Party] Defendant Snowmen 365, LLC’s Motion For Summary Judgment (Doc. #216) and Defendant/Third-Party Plaintiff Lenexa Real Estate Portfolio Partners, LLC’s Motion For Summary Judgment On Its Third-Party Complaint Against Snowmen 365, LLC (Doc. #222), both filed September 30, 2020.

Both motions for summary judgment dispute whether the contract with Lenexa Real Estate was with Snowmen 365, LLC or Snowmen, Inc., but the record does not disclose the precise relationship between the two Snowmen entities. All we know is that they share at least one management employee, they both marketed themselves under the name “Snowmen 365” and that since January of 2018, Snowmen 365, LLC has become Snowmen, Inc. See Third Party Defendant’s Amended Federal Rule 7.1 Corporate Disclosure Statement (Doc. #101) filed February 7, 2020 at 1. Based on the limited evidence on this issue, the Court infers that Snowmen, Inc. and Snowmen 365, LLC are alter egos. Without evidence regarding the relationship between Snowmen 365, LLC and Snowmen, Inc., the Court overrules both motions for summary judgment.¹

The Court observes that absent some explanation about the substantive and procedural significance of this issue, it is unclear why the parties are throwing so much time and money at these issues. Since the summary judgment record is deficient anyway, would it not be smarter to join both Snowmen entities and develop a decent record about the relationship between them? Or stipulate that they are alter egos? Or that one is liable for any judgment rendered against the other?

IT IS HEREBY ORDERED that [Third-Party] Defendant Snowmen 365, LLC’s Motion For Summary Judgment (Doc. #216) filed September 30, 2020 is **OVERRULED**.

IT IS FURTHER ORDERED that Defendant/Third-Party Plaintiff Lenexa Real Estate Portfolio Partners, LLC’s Motion For Summary Judgment On Its Third-Party Complaint Against

¹ Lenexa Real Estate seeks summary judgment in part on its claim that Snowmen 365 breached the contract because it failed to defend or indemnify Lenexa Real Estate against plaintiff’s claim. The indemnification clause in the contract, however, excluded any claims that result solely from the negligence of Lenexa Real Estate. Snowmen 365 has raised a genuine issue of material fact whether the negligence of Lenexa Real Estate was the sole cause of the alleged injuries to plaintiff.

Snowmen 365, LLC (Doc. #222) filed September 30, 2020 is **OVERRULED**.

Dated this 27th day of January, 2021 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge