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District Court Partially Denies Motion to Dismiss for Failure to Allege Ulterior Motives

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Plaintiff Vincent Licata agreed to sell the assets of his temporary employment services businesses to Tri-State Employment Services, Inc., a New York corporation (Tri-State). An affiliate of Tri-State (Services) had previously negotiated the purchase and formed an entity that would facilitate the acquisition. The plaintiff and Tri-State also entered into an employment agreement which named Plaintiff vice-president of Tri-State and included various commission-based compensation clauses.

The plaintiff claims that defendants Services and Robert Cassera (according to the complaint, Tri-State's President and Chairman) interfered with his ability to get commissions by causing his clients to terminate their relationships with Tri-State. The plaintiff further alleges that Services and Cassera, through their affiliated entity Defendant Corporate Resource Services, Inc. (Corporate Resource), acquired a business without paying the plaintiff a commission required under his employment agreement. The defendants moved to dismiss the plaintiff's claim for tortious interference with a business relationship.

The court granted dismissal as to defendants Cassera and Services, but denied the motion as to Corporate Resource. Under Florida law, the interfering party must be a stranger to the business relationship. When the interfering defendant is a party's agent, the agent is considered a party and his or its interference is justified (and thus permissible) unless the agent acts solely with "ulterior motives" and against the principal's best interest. The plaintiff did not sufficiently allege that Services and Cassera acted with such ulterior motives in their interference. The court was not convinced that Corporate Resource enjoyed the same privilege to interfere, since, based on the face of the complaint, it does not appear that Corporate Resource was involved in the employment agreement or otherwise acting as an affiliate or agent of Tri-State.

Licata v. Tri-State Employment Services, Inc., 2012 WL 447484 (M.D.Fla. Feb. 13, 2012).

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