



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

**EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,**  
*Plaintiff,*

v.

**NATIONAL VISON, INC.**  
**d/b/a THE VISION CENTER**  
*Defendant.*

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**CIVIL ACTION NO. 9:06CV226 (TH)  
JURY**

**ORDER DENYING MOTION TO DISMISS**

Before the Court is Defendant Dr. S.J. Charendoff’s *Motion to Dismiss* [Doc. No. 19]. After reviewing the motion, the response, and the applicable law, this Court is of the opinion that the motion should be denied.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

The Equal Employment Opportunity Commission (EEOC) filed a complaint on September 25, 2006, seeking “to correct unlawful employment discrimination on the basis of sex and to provide appropriate relief to a class of female employees who were adversely affected by Defendant National Vission, Inc. D/b/a The Vision Center’s unlawful practices.” *EEOC’s Original Complaint* [Doc. No. 1], paragraph 1. Members of the class of female employees who were allegedly harassed successfully intervened in the suit, joining in the Title VII claims against National Vision. The plaintiff intervenors also filed state law claims of assault by offensive physical contact, battery, and/or sexual harassment against intervenor defendant Dr. Charendoff. Dr. Charendoff now urges the Court to decline supplemental jurisdiction over plaintiff-intervenors state claims. Primarily, Dr. Charendoff argues that because he was not an employer of the plaintiff-intervenors for Title VII purposes, the claims against him are sufficiently divorced from the underlying federal claim as to render this Court’s exercise of supplemental jurisdiction undesirable.

**II. ANALYSIS**

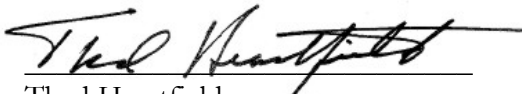
Supplemental jurisdiction extends a district court's jurisdiction over claims that are sufficiently related to the claim on which its original jurisdiction is based. *See* 28 U.S.C. § 1367(a). Furthermore, "[s]uch supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties." *Id. See also Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 557, 125 S.Ct. 2611, 2620, 162 L.Ed.2d 502 (2005). The Court may decline to exercise supplemental jurisdiction when (1) the pendant claim raises a novel or complex issue of state law; (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction; (3) the Court has dismissed all claims for which it has original jurisdiction; or (4) in exceptional circumstances where there are other compelling reasons for declining jurisdiction. 28 U.S.C. § 1367(c).

Plaintiff-intervenors state claims against Dr. Charendoff arise from the same facts, conduct, and series of occurrences that gave rise to the EEOC's suit. That Dr. Charendoff was not their employer is immaterial to this analysis. Furthermore, the Court finds none of the 1367(c) reasons to decline exercising supplemental jurisdiction in this matter. Dr. Charendoff's Motion to Dismiss will be denied.

**IT IS THEREFORE ORDERED** that Defendant Dr. S.J. Charendoff's *Motion to Dismiss* [Doc. No. 19] is **DENIED**.

**SO ORDERED.**

**SIGNED** this the **30** day of **March, 2007**.

  
Thad Heartfield  
United States District Judge