

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

ECONOMIC SYSTEMS, INC.,

Plaintiff,

v.

SIMONE BETTINA MURRAY, *et al.*,

Defendants.

Case No. CL-2026-0003930

**MEMORANDUM OPINION AND ORDER GRANTING IN PART MOTION CRAVING
OYER BY DEFENDANT APFS STAFFING, INC. D/B/A ADDISON GROUP**

The matter before the Court concerns a motion craving oyer by Defendant APFS Staffing Group, Inc. d/b/a Addison Group (“Defendant”) in a case involving claims against it for fraud, fraud in the inducement, unjust enrichment, and breach of contract.

Boiled to its essence, Plaintiff Economic Systems, Inc. (“Plaintiff”) contends it sought out candidates from Defendant for employment or engagement, that Defendant forwarded Plaintiff the resume and credentials of an alleged fraudster named Simone Bettina Murray (“Murray”), that Plaintiff engaged Murray to perform sensitive work on its behalf after relying upon representations from Defendant, and that Murray embezzled, converted, or improperly diverted over \$2,481,569 to her own benefit.

Defendant has craved oyer of a number of documents mentioned in Plaintiff’s Complaint. Some of these documents have been specifically referenced and some have been generally referenced. Plaintiff contends Defendant is using oyer as an improper substitute for discovery under Rule 4:9. She further argues permitting oyer of any and all documents referenced in a complaint is antithetical to the convention of notice pleading that has long been a hallmark of

modern trial practice. Lurking in the shadows of Plaintiff's argument is the reality that a successful motion craving oyer makes requested documents part of the record at the pleading stage. This, in turn, may increase the likelihood that a defensive pleading (such as a demurrer or plea in bar) could summarily terminate a case. Accordingly, Plaintiff asks this Court to rule that oyer should be limited to only a few core documents that are "essential" to help Defendant understand the claims alleged in its Complaint.

For the reasons that follow, the Court GRANTS the motion craving oyer IN PART as specified below.

In *Byrne v. City of Alexandria*, 298 Va. 694, 700 (2020), the Virginia Supreme Court explained that a motion craving oyer is a "remedy afforded to a litigant who has been sued on a claim based upon a written document mentioned in a claimant's pleading but not made a part of the record." Citing *Blackstone's Commentaries* and eminent Virginia authority John B. Minor, the Court traced the history of the oyer device in detail:

The word 'oyer' is of Norman French origin and means 'to hear.' It is generally agreed that the motion craving oyer originated in the early years of the English common law when many litigants were illiterate. It served as a remedy for a defendant, sued on a claim based on a written document, to have the document produced in court and read aloud to him. [Cites omitted]

Id. at 698-99.

From this history, no doubt, comes the oft-repeated observation that a motion craving oyer is designed to help a defendant understand the nature of the claim being asserted by the plaintiff. It is not, and never has been, merely a tool to obtain discovery of documents that may be useful but which are not fundamental to the plaintiff's claim. See *Langhorne v. Richmond R. Co.*, 91 Va. 369, 372 (1895) ("None of these writings ought to have been, or could properly be, considered upon the demurrer. The plaintiff did not claim under them").

At early common law, oyer was available “only to compel the production of deeds, writs, bonds, letters of probate and administration and other ‘specialties’ (referring to documents under seal).” *Byrne*, 298 Va. at 699 (cites omitted). However, “over the succeeding centuries,” parties began to use oyer to bring important documents into the record in order to demur or plea and thereby “serve the salutary purpose of avoiding the delay, expense and consumption of judicial resources attendant on trial preparation, trial and appeal in a case that was ill-founded in law.” *Id.*

Eventually, the Virginia Supreme Court “expanded the remedy to include production of a much wider range of documents.” *Byrne*, 298 Va. at 699. These have included contracts, pleas in other cases, records of various kinds, and even an arbitration award. *Id.* Recent cases amplify the modern trend. *Byrne* involved craving oyer of an entire legislative record. Once produced, it could be considered on demurrer and the defendant successfully argued that challenged governmental action was not arbitrary and capricious. *Byrne*, 298 Va. at 701-02. In *Jones v. Drew*, 2026 Va. App. LEXIS 2, at *11-12 (2026), the plaintiff’s complaint for malicious prosecution referenced the affidavit in support of his arrest warrant, his preliminary hearing, his indictments, and the trial transcript. The trial court granted a motion craving oyer of these documents, followed by orders sustaining a demurrer and pleas in bar to the plaintiff’s complaint based on the materials subject to oyer.

From the foregoing, it is clear a motion craving oyer is far more than a device to help a defendant understand the nature of the claims asserted against it. Instead, it has been specifically sanctioned as a salutary tool that may be used to summarily dispense with “ill-founded” claims at the pleading stage. As the Supreme Court has observed, “a litigant has no right to put blinkers on the court and attempt to restrict its vision to only such parts of the record as the litigant thinks tend to support his view.” *Culpeper Nat’l Bank v. Morris*, 168 Va. 379, 382-83 (1937).

Set against the foregoing background, a trial court should grant a motion craving oyer “where the missing document is essential to the claim.” *Byrne*, 298 Va. at 698. This presents a question of law. *Id.* A document is “essential” if the plaintiff’s claim is based upon it. *E.g.*, *Byrne*, 298 Va. at 700; *Langhorne*, 91 Va. at 392.

Plaintiff contends that Defendant provided it with Murray’s resume amid representations it had vetted her candidacy for a sensitive role. In paragraph 66 of its Complaint, Plaintiff specifically states that:

The resume and other information that [Defendant] Addison Group provided to EconSys relating to Murray misrepresented Murray’s qualifications, background, education and certifications, and experience and misled [Plaintiff] EconSys, which justifiably and reasonably relied on the resume and other information provided.

This conduct is alleged to underpin, among other things, Plaintiff’s claim for fraud in Count VII. Thus, Defendant craves oyer of “the resume and resume-related email(s), as referenced in paragraphs 20, 21, 27, 30-35, and 66 of the Complaint,” as well as “other [written] information” referenced in paragraph 66.¹ Because the provision of Murray’s allegedly fraudulent resume and “other information” undergirds at least Plaintiff’s fraud claim in Count VII, if not other claims, the motion craving oyer is GRANTED as to Murray’s resume, any emails transmitting said resume from Defendant to Plaintiff, and any documents containing “other information” which Plaintiff contends was fraudulent as set forth in paragraph 66 of the Complaint. Plaintiff need not provide oyer of resumes from other than Murray even if they were transmitted in the same emails as Murray’s resume.

¹ Plaintiff identified the paragraphs of the Complaint that relate to its motion craving oyer in a proposed order tendered to the Court.

Plaintiff's claim for breach of contract in Count X is based on a Statement of Work attached to the Complaint as Ex. 2. However, paragraph 25 of the Complaint alleges that "[Defendant] Addison Group further represented that 'the Assigned Consultant will have the experience defined in the resume provided to Client prior to engagement'" This quote appears to be from a document, and thus Defendant has craved oyer of any document from which this quote is taken unless it is the Statement of Work (which is already attached to the Complaint). Because allegedly fraudulent representations of this sort appear to be part of the alleged basis for Plaintiff's fraud claims (if not its other claims), the motion craving oyer is GRANTED to the extent the alleged statement in Paragraph 25 of the Complaint is based on a document other than the Statement of Work.

The allegations of paragraphs 28-29 of the Complaint also appear to allege misrepresentations based on quotes from a written document. If so, the motion craving oyer is GRANTED as to the document(s) from which the quotes were lifted.

Finally, the motion craving oyer is GRANTED as to the invoices referenced in paragraphs 132-133 of the Complaint. The Complaint alleges that monies changed hands in reliance on the fraudulent representation that Murray had invoiced for legitimate work.

All documents for which oyer has been granted shall be appended to a praecipe. Plaintiff shall file in this case within 10 days of the date hereof indicating which of the paragraphs of the Complaint the documents correspond to, and those documents shall be considered incorporated into the Complaint by reference. If documents for which oyer has been granted do not exist, Plaintiff shall so state in its praecipe.

Signatures of counsel for the parties have been dispensed with pursuant to Rule 1:13.

THIS MATTER IS CONTINUED.

June 12, 2026
Fairfax, Virginia



Timothy J. McEvoy
Judge, Circuit Court for Fairfax County