

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CENTURYLINK COMMUNICATIONS,	§	
LLC f/k/a QWEST COMMUNICATIONS	§	
COMPANY, LLC,	§	
<i>Plaintiff,</i>	§	Case No. 20-cv-2703
	§	
v.	§	
	§	
ERVIN CABLE CONSTRUCTION, LLC,	§	
and MACMA HDD, LLC,	§	
<i>Defendants.</i>	§	

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff CenturyLink Communications, LLC f/k/a Qwest Communications Company, LLC ("CenturyLink") files this original complaint against Defendants, Ervin Cable Construction, LLC, ("Ervin Cable"), and MacMa HDD, LLC, ("MacMa") (collectively, "Defendants") arising from damages to CenturyLink's underground fiber-optic cables in Houston, Texas, caused by Defendants' wrongful acts and omissions.

PARTIES

1. CenturyLink Communications, LLC f/k/a Qwest Communications Company, LLC, is a limited liability company organized and existing under the laws of the State of Delaware with a principal place of business in Monroe, Louisiana. The citizenship of all members of CenturyLink Communications, LLC, is Louisiana.

2. Ervin Cable Construction, LLC, is a limited liability company and existing under the laws of the State of Delaware with a principle place of business in Irving, Texas.

Upon information and belief, the members of Ervin Cable Construction, LLC, and citizens of Florida. Ervin Cable Construction, LLC, may be served with process via its registered agent, C T Corporation System, at 1999 Bryan Street, Suite 900, Dallas, TX 75201, or wherever it may be found.

3. MacMa HDD, LLC n/k/a CEC Infrastructure Group, LLC, is a limited liability company and existing under the laws of the State of Texas. Upon information and belief, the members of MacMa HDD, LLC n/k/a CEC Infrastructure Group, LLC, are citizens of Texas. MacMa HDD, LLC n/k/a Infrastructure Group, LLC, may be served with process via its registered agent, K. Ray Waddell, at 1275 Valley View Lane, Irving, Texas 75061, or wherever he may be found.

JURISDICTION AND VENUE

4. The court has personal jurisdiction, specific and general, over Defendants in this action because a substantial part of the events or omissions giving rise to the claim occurred in Houston, Harris County, Texas, and Defendants have engaged in “continuous and systematic” activities with the State of Texas as evidenced by their conducting business and offering services in Texas.

5. The court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a) because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States. Specifically, as a result of Defendants’ acts and omissions, CenturyLink has sustained substantial damage to its

underground fiber-optic telecommunication cable made the subject of this lawsuit, which resulted in actual damages to CenturyLink in excess of \$100,000. Moreover, CenturyLink Communications, LLC, is a citizen of Louisiana, Ervin Cable Construction, LLC, is a citizen of Florida, and MacMa HDD, LLC, is a citizen of Texas.

6. Venue is proper in the court under 28 U.S.C. § 1391(b)(2) because “a substantial part of the events or omissions giving rise to the claim occurred” in this judicial district.

FACTUAL BACKGROUND

7. CenturyLink is a global communications provider that provides communications to enterprise, government, and carrier customers.

8. CenturyLink’s telecommunication services are provided through, among other means, extensive nationwide fiber networks consisting of, in part, underground fiber-optic telecommunications conduits and cables.

9. CenturyLink’s underground facility, including underground fiber-optic telecommunication conduits and cables, made the subject of this action was installed, operated, and maintained, in part, at or near the intersection of FM 529 and Barker Cypress Road in Houston, Harris County, Texas (the “Underground Facility”).

10. On or about August 2, 2018, upon information and belief, Verizon Wireless hired Ervin Cable to carry out installing its 5G network project, which included underground installation at or near the Underground Facility. Ervin Cable hired MacMa

to perform horizontal boring and trenching in furtherance of completing Verizon Wireless' 5G network project.

11. On July 19, 2018, MacMA called for a dig ticket for the project to begin on July 23, 2018. A new dig ticket for the project was due by August 2, 2018.

12. CenturyLink's Underground Facility was visibly and properly marked under the dig ticket.

13. Although Defendants had knowledge of the approximate location of CenturyLink's Underground Facility, they did not take the appropriate precautionary measures to confirm the actual location of CenturyLink's Underground Facility.

14. Simply put, Defendants completely failed to take the necessary and proper precautions to locate and avoid CenturyLink's Underground Facility before and during the excavation and boring services.

15. As such, on August 2, 2018, while directional drilling using mechanized equipment, Defendants cut into CenturyLink's Underground Facility.

16. Defendants were conducting excavation and boring services negligently, knowingly, and intentionally in violation of the Texas Underground Facility Damage Prevention and Safety Act, TEX. UTIL. CODE §§ 251.001, et seq., and industry standards and practices for conducting excavation, boring, or other similar services with mechanized equipment near underground fiber-optic cables and conduits, including the

Underground Facility, and with complete disregard as to the location and safety of CenturyLink's Underground Facility.

RELIEF REQUESTED

NEGLIGENCE & GROSS NEGLIGENCE

17. CenturyLink adopts and incorporates by reference all allegations contained in paragraphs 1 through 16, above.

18. CenturyLink generally alleges that Defendants owed a legal duty to CenturyLink, Defendants breached that duty, and the breach proximately caused CenturyLink's damages.

19. CenturyLink generally alleges that Defendants engaged in acts or omissions which when viewed objectively from the standpoint of Defendants at the time of the incident involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and of which Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.

20. More specifically, upon information and belief, CenturyLink alleges that Defendants acted negligently and grossly negligently on or about August 2, 2018, by, but not limited to, the following wrongdoing:

- (a) Defendants failed to comply with the Texas Underground Facility Prevention and Safety Act, TEX. UTIL. CODE §§ 251.001, et seq.

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