

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE §  
OF THE NATIONAL ASSOCIATION §  
FOR THE ADVANCEMENT OF §  
COLORED PEOPLE; ANTHONY §  
ALLEN; and STEPHANIE §  
ANTHONY §

*Plaintiffs,*

v.

STATE OF LOUISIANA; and R. §  
KYLE ARDOIN, in his capacity as §  
Secretary of State of Louisiana, §

*Defendants.*

CASE NO. 3:19-cv-00479-JWD-SDJ

**PLAINTIFFS' RESPONSE TO MOTION TO INTERVENE**

Proposed Intervenors have no interest in the outcome of this case, as they readily concede. Mot. at 2 (“The Intervenors take no position on the parties’ arguments relative to District Five, or on the ultimate merits of the claims and defenses of any party in this litigation.”). Moreover, Proposed Intervenors make clear that they are not seeking intervention to participate in a decision on the merits of the claims raised in this case. *Id.* at 1 (Proposed Intervenors “respectfully move under Federal Rule of Civil Procedure 24 to intervene in this action for the limited purpose of filing a Motion to Partially Lift Consent Stay Order.”) (emphasis added).

Plaintiffs agree with the Proposed Intervenors that it is inappropriate for them to intervene to participate in a decision on Plaintiffs’ claims. One cannot be completely disinterested in the outcome of a lawsuit while simultaneously having Article III standing in that lawsuit. *Cf. McMahon v. Fenves*, 946 F.3d 266, 270 (5th Cir. 2020) (standing requires a “a direct stake in the

outcome” of the case (quoting *Sierra Club v. Morton*, 405 U.S. 727, 740 (1972)). As a result, by their own concession, Proposed Intervenors have failed at the first step of their motion.

It likewise appears that the Motion to Intervene fails on the merits. Proposed Intervenors are seeking intervention not to adjudicate a right or claim at stake in this litigation, but instead “for the limited purpose of filing a Motion to Partially Lift Consent Stay Order.” Mot. at 1. Intervention is not permitted on the narrow grounds sought in the motion. As the Fifth Circuit has explained,

The purpose of intervention is to admit, by leave of court, a person who is not an original party into a proceeding. The intervening party then becomes a “party” for the purpose of protecting some right or interest alleged by the intervenor to be affected by the proceeding.

*Deus v. Allstate Ins. Co.*, 15 F.3d 506, 525 (5th Cir. 1994). Rule 24 does not permit partial intervention that would allow the movant to obtain the benefits of litigation without any of the burdens of being a party. *See id.* (citing *Cunningham v. Rolfe*, 131 F.R.D. 587 (D. Kan. 1990)), in which “the court found that permissive intervention was not appropriate where the applicants were merely trying to gain access to discovery materials generated in an earlier products liability suit for use in their own products liability case against the same defendant”). As the Fifth Circuit explained, “In the absence of a claim or defense needing protection, the lack of an alternate remedy” for the Proposed Intervenors “is of no consequence.” *Deus*, 15 F.3d at 525-26.

Finally, regardless of whether the Motion to Intervene is considered as of right or permissively, Proposed Intervenors have not established that they made a “timely application” for intervention. Fed. R. Civ. P. 24; *see also Sierra Club v. Espy*, 18 F.3d 1202, 1204–05 (5th Cir.1994) (“we have held that “[a] party seeking to intervene as of right must satisfy four requirements” including that “the application must be timely”) (citation omitted). The Court granted the State of Louisiana’s Motion to Stay on May 3, 2022, and the Clerk entered the Order the next day. *See* ECF No. 101. Proposed Intervenors did not file their Motion to Intervene until

June 29, 2022, nearly two months later. *See* ECF No. 109. Although Proposed Intervenor quote Rule 24's language requiring a "timely motion," Mot. at 1, they make no effort to explain their delay in filing their motion that would allow the Court to make any determination of whether their tardiness may be excused. *See Stallworth v. Monsanto Co.*, 558 F.2d 257, 263-66 (5th Cir. 1977) (describing the Fifth Circuit's test for assessing the timeliness of a motion to intervene).

For all of the foregoing reasons, Plaintiffs respectfully submit that Proposed Intervenor have not established they may intervene as of right or permissively, and accordingly their Motion to Intervene should be denied.

Dated: July 7, 2022

Respectfully submitted,

/s/ Meryl Macklin

By: Meryl Macklin, Esq.\*

meryl.macklin@bclplaw.com

**BRYAN CAVE LEIGHTON PAISNER LLP**

Three Embarcadero Center, 7th Floor

San Francisco, CA 94111

(415) 675-3400

(415) 675-3434 Facsimile

Logan Rutherford, Esq.\*

logan.rutherford@bclplaw.com

**BRYAN CAVE LEIGHTON PAISNER LLP**

One Kansas City Place 1200 Main

Kansas City, MO 64105

(816) 374-3319

(816) 374-3200 Facsimile

Kristin H. Corradini, Esq.\*

kristin.corradini@bclplaw.com

**BRYAN CAVE LEIGHTON PAISNER LLP**

161 North Clark Street Suite 4300

Chicago, IL 60601

(312) 602-5112

(312) 602-5050 Facsimile

Jon Greenbaum, Esq.\*

jgreenbaum@lawyerscommittee.org

Ezra D. Rosenberg, Esq.\*

erosenberg@lawyerscommittee.org

Jennifer N. Nwachukwu, Esq.\*

jnwachukwu@lawyerscommittee.org

**LAWYERS' COMMITTEE FOR CIVIL RIGHTS**

**UNDER LAW**

1500 K Street NW, Suite 900

Washington, DC 20005

(202) 662-8600

\*admitted *pro hac vice*

/s/ Arthur R. Thomas

By: Arthur R. Thomas, Esq., LA Bar #12797

**ATTORNEY AT LAW**

3313 Government Street

Baton Rouge, LA 70806

(225) 334-7490

(225) 334-7491 Facsimile

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 7, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

*Counsel for Defendant Secretary of State*

/s/ Meryl Macklin

Meryl Macklin