

Explanation of Rule 24 Intervention

Under Federal Rule of Civil Procedure (“FRCP”) Rule 24, an “outsider” can become a party to a pending litigation. Intervention allows “strangers” to invite themselves into a lawsuit between others. Because federal civil litigation is usually complex and often involve broad factual circumstances and legal questions, lawsuits like *Felter v. Norton* sometimes are not merely private disputes but they have implications on those not named as parties. One of the devices provided by the FRCP to deal with this fact is Rule 24 Intervention.

Edison Gardner filed an application for intervention as an individual for the professed purpose of protecting his right to serve as a Ute Tribal Advocate, his right to demand that the Defendants recognize the legal status of Uinta mix-blood Indians in manner required by federal law and his right to full protection of due-process of the Fifth Amendment of the United States Constitution and the Fourteenth Amendment of the United States Constitution. Gardner also argues that he has rights that are somehow implicated in the Commerce Clause of the United States Constitution, rights to contest the failure of the United States to issue regulations governing Uinta Mix-blood Indian traders and rights to somehow correct the failure of the Defendants to provide irrigation for Uinta Mix-blood Indian farmers. We argue that the “rights” that Gardner seeks to protect through his intervention are not properly described and they are not the subject of the Causes of Action alleged against the Defendants in the *Felter* Amended Complaint.

Upon filing a timely application for intervention as of right under Rule 24(a) (2), Gardner would be entitled to intervene if he has (a) recognized interest in the subject matter of the primary litigation, 2) an interest might be impaired by the disposition of the suit, and 3) his interest is not adequately protected by the existing parties.

In regard to the first requirement, we have argued that the interest identified by Gardner are not directly related to the ones described in the Causes of Action and, thus, they are not significantly protectable interest. Here, the Plaintiffs in *Felter* arguing that the United States has improperly executed the Ute Partition Act in a manner that was not intended by Congress and this nullifies that Act and voids it out of existence. Gardner does not describe any of the interest he claims to protect in his Motion for Intervention with any degree of specificity. It is one thing to intervene in someone else’s lawsuit with a very specifically described reason and it is another thing to merely claim that you have a general interest in the lawsuit.

We have argued in our opposition to Gardner’s intervention that he is not seeking to protect the same interest of the Plaintiffs in proving that the Defendants failed to correctly execute the Ute Partition Act to the injury of the Plaintiffs. Since the interest Gardner claims fall far outside of those we have included in the 8 Causes of Action, we argue that he has no interest that may be impaired or impeded by the disposition of this case. For example, a judicial decision by Judge Roberts in *Felter* cannot help Gardner become a Ute Tribal Advocate or somehow protect the rights of Uinta Mix-blood Indians farms to irrigate their land. He can protect these and the other legal rights and claims *without* participating in this litigation.

Finally, in order to intervene under Rule 24(a)(2), the applicants must prove that his claimed legal interests are not adequately protected by the existing parties. If the legal interest that Gardner seeks to protect by his intervention are not the subject of the Causes of Action in *Felter*, then obviously we could never protect those rights he claims to have in your lawsuit. We want to prove that the Ute Partition Act was not implemented toward the *Felter* Plaintiffs as intended by Congress. On the other hand, Gardner wants to prove something of a generalized nature in circumstances and area of the law that way outside of what we want prove. However, he cannot prove that we will not adequately protect his legal interest when those legal interest are not the ones we are litigating in *Felter*.

I hope this brief explanation will help you understand why the Motion for Intervention was filed and why we want Judge Roberts to deny Gardner's Motion.

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