

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-61511-CIV-ZLOCH

CAROL WILDING, et al.,

Plaintiffs,

O R D E R

vs.

DNC SERVICES CORPORATION and
DEBORAH WASSERMAN SCHULTZ,

Defendants.

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THIS MATTER is before the Court upon the Expedited Motion To Intervene Of Steve Schonberg (DE 15). The Court has carefully reviewed said Motion, the entire court file and is otherwise fully advised in the premises.

By the instant Motion (DE 15), Steve Schonberg asserts that he should be permitted to intervene as of right in the above-styled cause. To intervene as of right under Rule 24(a)(2), a party must establish that "(1) [its] application to intervene is timely; (2) [it] has an interest relating to the property or transaction which is the subject of the action; (3) [it] is so situated that disposition of the action, as a practical matter, may impede or impair [its] ability to protect that interest; and (4) [its] interest is represented inadequately by the existing parties to the suit." Chiles v. Thornburgh, 865 F.2d 1197, 1213 (11th Cir. 1989) (citing Athens Lumber Co. v. FEC, 690 F.2d 1364, 1366 (11th Cir.

1982)). Intervention as of right is proper only where all four requirements have been established.

For expediency, the Court focuses its analysis on whether "disposition of the action, as a practical matter, may impede or impair [Mr. Schonberg's] ability to protect [his] interest." Chiles, 865 F.2d at 1213. The thrust of Mr. Schonberg's argument with respect to this element is that the potential stare decisis effect of any appeal in the above-styled cause justifies his intervention. While it is true that stare decisis may, in some cases, provide a basis for intervention as of right, Atlantis Development Corp. v. United States, 379 F.2d 818 (5th Cir. 1967),¹ the Court is not convinced that those concerns warrant intervention here. Courts interpreting Rule 24(a)(2) have stressed that the crux of the "impede or impair" prong is the practical consequence of a judgement. For example, in Atlantis, the former Fifth Circuit held that the practical consequence of a judgment against the defendants would render "worthless" the intervenor's claims, which raised two discrete issues of law that would of necessity be decided with or without the inetervenor's claims. Id. at 828. Resolution of either of those legal issues against the defendants would have practically deprived the intervenor of its claim to

¹ In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1980.

certain subaquatic property. Id. at 826-27. Noting the potential effect of stare decisis on those legal issues, the former Fifth Circuit held that intervention as of right under Rule 2(a)(2) was in order. Id. at 829.

Conversely, here, Mr. Schonberg's putative claims will not be adversely affected by the above-styled cause. Mr. Schonberg's putative Complaint In Intervention seeks various forms of equitable relief not sought by the First Amended Complaint (DE 8). His claims all seek emergency relief against Defendants DNC Services Corporation and Deborah Wasserman Schultz, as well as certain other relief against Plaintiffs' counsel. Any claims against Plaintiffs' counsel for violations of ethical duties, of course, will not be affected by any judgment or appeal in this case. And, as a practical matter, stare decisis will not impede Mr. Schonberg's claims due to their emergency nature—for any decision regarding Mr. Schonberg's emergency relief will undoubtedly be reached before the merits of Plaintiffs' claims, both in this Court and, in all likelihood, the court of appeals. Moreover, unlike Atlantic, the precise legal issue pressed by Mr. Schonberg's claims has not been presented to the Court in the above-styled cause. See id. (noting that courts should consider whether the issue in the first case "will in all likelihood be [in] the second"). In short, the pendency of the above-styled cause neither impedes nor impairs Mr. Schonberg from elsewhere seeking the relief he desires.

The Court also notes that any "motion to intervene must be served on the parties. . . ." Fed. R. Civ. P. 24(c). In this district, all pleadings and papers required by the Federal Rules of Civil Procedure to be served on other parties must include a certificate of service. S.D. Fla. L. R. 5.2(a). The instant Motion (DE 15) lacks such a certificate of service and otherwise fails to indicate whether it has been served upon the parties in this case.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED that the Expedited Motion To Intervene Of Steve Schonberg (DE 15) be and the same is hereby **DENIED**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 26th day of July, 2016.



WILLIAM J. ENOCH
United States District Judge

Copies furnished:

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