

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION

COURTNEY RAE HUDSON

PLAINTIFF

v.

CASE NO.: 60CV-24-7576

**ARKANSAS ADMINISTRATIVE OFFICE
OF THE COURTS;
SUPREME COURT OFFICE OF PROFESSIONAL CONDUCT;
MARTY SULLIVAN, EXECUTIVE DIRECTOR OF THE
ADMINISTRATIVE OFFICE OF THE COURTS; and
CHARLENE FLEETWOOD, ACTING DIRECTOR
OF THE OFFICE OF PROFESSIONAL CONDUCT**

DEFENDANTS

BRIEF IN SUPPORT OF MOTION TO INTERVENE

The Court entered an Order for Preliminary Injunction pursuant to Plaintiff Courtney Rae Hudson’s (“Justice Hudson”) Complaint for Injunction and Preliminary Injunctive Relief Pursuant to Arkansas Rule of Civil Procedure 65. The Order enjoins Defendants’ officers, agents, servants, employees and attorney, and other persons who are in active concert or participation with defendants from producing any documents in response to a FOIA request of Mark Friedman (“Mr. Friedman”). Mr. Friedman and Five Legged Stool, LLC, doing business as Arkansas Business Publishing Group (“Arkansas Business”) have an interest in their FOIA request and the application of the Arkansas Freedom of Information Act to the request and move to intervene in this action.

ARGUMENT

Arkansas Business and Mr. Friedman claim an interest in this matter because this action concerns their FOIA request and application of applicable law. Pursuant to Ark. R. Civ. Pro. 24, Arkansas Business may intervene if (1) they have a “recognized interest in the subject matter” of

the petition; (2) its interest might be impaired by the disposition of the petition; and (3) its “interest is not adequately represented by existing parties.” See *Pearson v. First Nat. Bank of Dewitt*, 325 Ark. 127, 130, 924 S.W.2d 460, 461-62; see also *Helena Reg’l Med. Ctr. V. Wilson*, 362 Ark. 117, 128, 207 S.W.3d 541, 547, (2005) (recognizing Rule 24 intervention as a “proper method for a nonparty to enter a probate proceeding”) (citing *Reynolds v. Guardianship of Sears*, 327 Ark. 770, 940 S.W.2d 483 (1997)).

Permissive intervention is somewhat less stringent “[P]ermissive intervention may be allowed . . . when the intervenor’s interest sought to be protected involves a question of law or fact in common with the action in which intervention is sought.” D. Newbern, et al., 2 Ark. Civ. Prac. & Proc. § 7:10 n. 19(5th ed., May 2021 update) (collecting cases).

Arkansas Business and Mr. Friedman should be allowed to intervene as a matter of right because it is undisputed that Justice Hudson seeks to have this Court determine and order that Justice Hudson is the custodian of the requested records and that the requested documents are exempt under Ark. Code Ann § 25-19-105(b)(7).

No party to this matter adequately represents Arkansas Business and Mr. Friedman’s interest in having the requested documents provided pursuant to their FOIA request. Further, the interest of Arkansas Business and Mr. Friedman will be impaired if Justice Hudson is successful. Justice Hudson would have this court shield documents from the FOIA request and from the public when five (5) Justices of the Arkansas Supreme Court which oversees the Court system have determined should be produced.

Additionally, Arkansas Business and Mr. Friedman should be allowed to intervene pursuant to Ark. Rule Civ. Pro. 24(b) because there is a common question of law and fact as to whether Justice Hudson was custodian and whether the documents are exempt under the Act.

CONCLUSION

For the reasons cited above, Arkansas Business and Mr. Friedman should be allowed to intervene in this matter of right, or, alternatively, with the Court’s permission.

Respectfully submitted,

QUATTLEBAUM, GROOMS & TULL PLLC
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
Telephone: (501) 379-1700
Facsimile: (501) 371-1701
jtull@qgtlaw.com
wyandell@qgtlaw.com

/s/ John E. Tull III

John E. Tull III (84150)
William T. Yandell (2023160)

*Attorneys for Intervenors Mark Friedman
and Five Legged Stool, LLC, d/b/a
Arkansas Business Publishing Group*

CERTIFICATE OF SERVICE

I, John E. Tull, hereby certify that on this 10th day of September 2024, I electronically filed the foregoing with the Clerk of the Court using the AOC eFlex electronic filing system, which shall send notification of such filing to all counsel of record.

Mr. Justin C. Zachary
Mr. Joe Denton
Mr. Andrew Norwood
Denton, Zachary & Norwood PLLC
2100 Riverdale Road, Suite 200A
Little Rock, AR 70234

John E. Tull III
John E. Tull III