

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2012-000456

06/11/2012

HON. JOHN REA

CLERK OF THE COURT  
L. Gilbert  
Deputy

THOMAS PARKER, et al.

CAROLINE A PILCH

v.

PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, THE, et al.    BENNETT EVAN COOPER

MICHAEL NAPIER

MINUTE ENTRY

Under advisement after oral argument is Phoenix Law Enforcement Association's ("PLEA") March 23, 2012 Motion to Intervene as a Plaintiff. Plaintiffs oppose the Motion. The Defendants do not oppose intervention so long as the addition of PLEA does not increase the possibility of Defendants' exposure to an award of attorney's fees.

The Court finds that PLEA is not entitled to intervention as a matter of right. In evaluating a request for permissive intervention, the Court is guided by the factors set forth in *Bechtel v. Rose*, 150 Ariz. 68, 72 (1986):

The nature and extent of the intervenors' interest - Plaintiffs seek class certification allowing them to represent themselves and all other law enforcement officers similarly situated. If class certification is granted, the class would include all members of PLEA and other law enforcement officers statewide. This distinguishes this case from *Saunders v. Superior Court*, 109 Ariz. 424 (1973), where the interest of the organizations of law enforcement officers that sought intervention was different from that of the Attorney General who represented the state officials named in the action.

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Intervenors' standing to raise relevant legal issues – PLEA has standing to assert the rights of its members.

The legal position they seek to advance - The proposed complaint accompanying PLEA's Motion to Intervene is nearly identical to that filed by the named Plaintiffs. It contains the exact same four theories for relief and the prayer for relief appears to have been taken verbatim from the Plaintiff's Complaint.

Whether intervenors' interests are adequately represented by other parties – There is no showing that counsel for the named Plaintiffs are inadequate to represent the identical interests of the Plaintiffs and Intervenors. PLEA argues that its burden of showing inadequate representation is “minimal.” Although that language appears in Justice Jones's dissent in *Napolitano v. Brown & Williamson*, the only issue of adequate representation articulated by PLEA relates to competing collective bargaining organizations, which is relevant only to Phoenix officers and is utterly extraneous to this lawsuit.

Whether intervention will prolong or unduly delay the litigation – This is unlikely.

Whether parties seeking to intervene will significantly contribute to full development of the factual issues and the just and equitable resolution of the legal issues – The legal issues presented in this case are serious and far reaching. PLEA's counsel has extensive experience in issues affecting its members. This is a case where more information from different points of view will aid the Court.

In evaluating the *Bechtel* factors, it is apparent that most are neutral and none weigh in favor of denying intervention. The Court believes that the final factor weighs heavily in favor of intervention.

IT IS ORDERED PLEA's Motion to Intervene as a Plaintiff is granted.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.