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2009 JUN 15 PM 3:19
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

CASE NO: 2006CF009454AXX.

2006CF009454AXX

STATE,

vs.

EPSTEIN, JEFFREY E,

Defendant.

FILED
09 JUN 12 PM 1:41
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 8

MOTION TO INTERVENE AND SUPPORTING MEMORANDUM OF LAW

COMES NOW, Applicant [REDACTED] and requests this Court, pursuant to Florida Rule of Civil Procedure 1.230, for leave to intervene as a party in Mr. Epstein's criminal matter for the following reasons:

1. Applicant's intervention is in subordination to, and in recognition of, the propriety of the main proceeding.
2. Applicant stands to either gain or lose by the court's direct legal operation and effect of judgment in the pending matter.
3. Applicant is not injecting a new issue into the pending matter.
4. Applicant's motion to intervene is timely.

5. Defense counsel, Robert Critton, Jr. in the civil matter, does not object to Applicant's motion, but Plaintiff's counsel has not heard back from Defendant Epstein's criminal counsel, Jack Goldberger as to whether he opposes this motion.

MEMORANDUM OF LAW

Anyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention, but the intervention shall be in subordination to, and in recognition of, the propriety of the main proceeding, unless otherwise ordered by the court in its discretion.

Fla.R.Civ.P. 1.230. "A person seeking leave to intervene must claim an interest of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment." Litvak v. Scylla Properties, LLC, 946 So.2d 1165, 1172 (Fla. 5th DCA 2006). Additionally, "an intervenor may not inject a new issue into the case."

Environmental Confederation of Southwest Florida, Inc., v. IMC Phosphates, Inc., 857 So.2d 207, 211 (Fla.1st DCA 2003). "An intervention is thus only appropriate where the issue the intervenor raises are related to the case being litigated." Racing Properties, L.P., v. Baldwin, 885 So.2d 881, 883 (Fla. 3rd DCA 2004).

Once the trial court determines that the intervenor's interest is sufficient, it exercises its discretion to determine whether to permit intervention. Union Cent. Life Ins. Co. v. Carlisle, 593 So.2d 505, 507 (Fla. 1992). "In deciding this question the court should consider a number of factors, including the derivation of the interest, any pertinent contractual language, the size of the interest, the potential for conflicts or new issues, and any other relevant circumstance." Id. Finally, an intervention is generally considered timely if it is made before a final decree has been entered. See Technical Chemicals And Products, Inc., v. Porchester Holdings, Inc., 748 So.2d 1090, 1091 (Fla. 4th DCA 2000).

Applicant's proposed intervention is subordinate and in recognition of the propriety of the main proceeding. Additionally, Applicant will not inject any new issue into Mr. Epstein's criminal case. In fact, Applicant's intervention is for the limited purpose of joining already intervening parties [REDACTED] and "the Palm Beach Post" in their arguments regarding the sealed Federal non-prosecution agreement in Mr. Epstein's criminal file. Finally, Applicant's interest is of such a direct and immediate character that the Applicant stands to either gain or lose by the court's judgment in the pending matter. The Applicant currently has a civil complaint against Mr. Epstein regarding allegations similar to those in this pending criminal matter. The sealed document may contain discoverable information or may lead to the discovery of new relevant information. See Fla.R.Civ.P. 1.280(b)(1). Additionally, the document may contain valuable impeachment information that the Applicant would intend to use if the Applicant's civil case proceeded to trial.

WHEREFORE, Applicant, [REDACTED], respectfully requests the Court grant [REDACTED]'s motion to intervene in the pending criminal matter.

CERTIFICATE OF SERVICE

HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U. S. Mail, postage prepaid, this 11 day of June, 2009 to Jack A. Goldberger, Esq., 250 Australian Avenue, Suite 1400, West Palm Beach, FL 334101; Bruce E. Reinhart, Esq., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401; Robert D. Critton, Jr., Michael J. Pike, 515 North Flagler Drive, Suite 400, West Palm Beach, FL 33401.

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