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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

1776 PROJECT FOUNDATION,

Plaintiff,

and

THE UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

ALBERTO M. CARVALHO, Superintendent of the Los Angeles Unified School District (LAUSD), and SCOTT SCHMERELSON, President of

No. 2:26-cv-00548-HDV-CTS

UNITED STATES OF AMERICA'S OPPOSITION TO A.M. AND E.H.'S MOTION TO INTERVENE

Hearing Date: July 30, 2026
Hearing time: 10:00 AM
Courtroom: 5B
Judge: Hernán D. Vera

the Los Angeles Unified School District (LAUSD) Board of Education, and BOARD OF EDUCATION OF THE LOS ANGELES UNIFIED SCHOOL DISTRICT,

Defendants,

and

A.M., a minor by and through their parent and next of kin Niglmoro Okuk; E.H., a minor by and through their parent and next of kin Latoya Huey,

Proposed Defendant-Intervenors.

I. INTRODUCTION

The United States of America, by and through its undersigned counsel, hereby opposes the Motion to Intervene filed by proposed Defendant-Intervenors Niglmoro Okuk on behalf of her minor child A.M. and Latonya Huey on behalf of her minor child E.H. (hereafter the "Proposed Intervenors") (Dkt. 36).

The motion is defective and should be denied for the following reasons:

- Proposed Intervenors failed to attach a pleading to their motion, as is expressly required by Federal Rule of Civil Procedure 24(c). In this regard, Rule 24(c) requires a pleading, not a motion to dismiss.
- Proposed Intervenors' motion is not timely because it is not complete.
- Contrary to their assertions, Proposed Intervenors are not part of "the *Crawford* class," which has not existed since the *Crawford* case closed in 1981, 45 years ago. As a consequence, Proposed Intervenors cannot be acting to protect the interests of the *Crawford* class—which no longer exists. And they identify no other significant protectable interest.

- The Proposed Intervenors' interests are adequately represented by the current parties, and Proposed Intervenors' counsel have no special expertise arising from the *Crawford* case, with which they had no involvement. Most importantly, Proposed Intervenors' positions are identical to those of Defendant Board of Education of the Los Angeles United School District (the "District" or "LAUSD").
- The intervention would unduly delay and prejudice the adjudication of the original parties' rights.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 24 sets forth the standard for both intervention as of right and permissive intervention.

Rule 24(a), governing intervention as of right, requires a court, on a proper and timely motion, to permit anyone to intervene who: "(1) is given an unconditional right to intervene by a federal statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." When analyzing a motion to intervene as of right under Rule 24(a)(2), the Ninth Circuit applies a four-part test:

> (1) the motion must be timely; (2) the applicant must claim a "significantly protectable" interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the applicant's interest must be inadequately represented by the parties to the action.

Wilderness Soc'y v. U.S. Forest Serv., 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc) (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9th Cir. 1993)). Failure to satisfy any one of these elements is fatal to the application. *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947, 950 (9th Cir. 2009).

Rule 24(b)(1), governing permissive intervention, allows intervention on a timely and proper motion where someone: "(A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact." Under this provision, a court has the discretion to permit intervention "where the applicant 'shows (1) independent grounds for jurisdiction; (2) the request is timely; and (3) the applicant's claim or defense, and the main action, have a question of law or a question of fact in common.'" *Perry*, 587 F.3d at 955 (quoting *Northwest Forest Res. Council v. Glickman*, 82 F.3d 825, 839 (9th Cir. 1996)). If these requirements are met the court may consider other factors, including whether the intervenors' interests are adequately represented by other parties. *Id.* The Court must, however, consider whether "the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).

Finally, in all cases under Rule 24, "[t]he motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought." Fed. R. Civ. P. 24(c).

III. THE MOTION IS DEFICIENT BECAUSE PROPOSED INTERVENORS FAILED TO ATTACH A PROPOSED PLEADING

Federal Rule of Civil Procedure 24(c) provides that every motion to intervene must "be accompanied by a pleading that sets out the claim or defense for which intervention is sought."

Here, Proposed Intervenors failed to include any pleading with their motion to intervene. Proposed Intervenors stated, instead, that they "plan to file a motion to dismiss on or before the Court's existing deadline." Dkt. 36-1, Memorandum, p. 2. Absent unusual circumstances, the failure to attach a proposed responsive pleading will result in the denial of a motion to intervene, because the Court requires a proposed pleading in order to assess whether intervention is appropriate. *Cal. Dep't of Toxic Substances Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1086 n. 7 (9th Cir. 2022) (party moving to intervene must attach proposed pleading); *Buffin v. City & Cnty. of San Francisco*, 2016 U.S. Dist. LEXIS

142734, *41-*45, 2016 WL 6025486, *12-*14 (N.D. Cal. Oct. 14, 2016) (denying motion to intervene where pleading was not attached, and distinguishing motions to intervene seeking merely to modify protective orders or that incorporate an already-filed operative pleading); *accord*, *Public Serv Co. v. Patch*, 136 F.3d 197, 205 n. 6 (1st Cir. 1998) (failure to attach proposed pleading will ordinarily warrant denial of motion to intervene); *Shevlin v. Schewe*, 809 F.2d 447 (7th Cir. 1987) (Rule 24(c) is "unambiguous" in requiring a pleading to accompany a motion to intervene); *Abramson v. Pennwood Inv. Corp.*, 392 F.2d 759, 761 (2d Cir. 1968) (motion to intervene properly denied where pleading did not accompany motion papers); *Miami County Nat'l Bank v. Bancroft*, 121 F.2d 921, 926 (10th Cir. 1941) (same); *Brown v. Colegio De Abogados De P.R.*, 277 F.R.D. 73, 76-77 (D.P.R. 2011) (same); *FTC v. Med Resorts Int'l, Inc.*, 199 F.R.D. 601, 606 (N.D. Ill. 2001) (same); *but cf. Beckman Indus. v. International Ins. Co.*, 966 F.2d 470, 473-75 (9th Cir. 1992) (allowing intervention without the submission of a pleading in a situation where the intervenor sought only to modify a protective order).

Rule 24(c), moreover, requires the attachment of a pleading, not the attachment of a motion to dismiss. *See Cal. Dep't of Toxic Substances Control*, 54 F.4th at 1086 n. 7; *Gabauer v. Woodcock*, 425 F. Supp. 1, 3 (D. Mo. 1976), *aff'd in part and rev'd in part on other grounds*, 594 F.2d 662 (8th Cir. 1979); Fed. R. Civ. P. 7(a) (motions are not pleadings). For this reason, Proposed Intervenors later filing of a proposed motion to dismiss will not suffice.

Proposed Intervenors' failure to attach a pleading makes it presumptively impossible for the Court or the parties to properly assess what their "claim or defense" is—or whether they even have a claim or defense. The absence of a pleading is significant, moreover, in that Proposed Intervenors have not expressly affirmed that they will not assert counterclaims or cross-claims, which would require proof of independent jurisdictional grounds. *Freedom from Religion Found., Inc. v. Geithner*, 644 F.3d 836, 843-44 (9th Cir. 2011). The Court should demand to see a proposed pleading before addressing any of these questions.

IV. PROPOSED INTERVENORS DO NOT SATISFY THE REQUIREMENTS FOR INTERVENTION AS OF RIGHT

A. Intervenors' Motion Is Not Timely.

Federal Rule of Civil Procedure 24(a) provides that a motion to intervene must be "timely." *See NAACP v. New York*, 413 U.S. 345, 365-66 (1973) (untimely motion to intervene must be denied). Here, Proposed Intervenors' motion cannot be said to be timely because they have not yet filed a complete motion. We do not know when—if ever—a complete motion will be filed.

B. There Is No Federal Statute Giving Intervenors A Right To Intervene.

Proposed Intervenors do not cite to any federal statute giving them an unconditional right to intervene, or any right to intervene. Accordingly, intervention as of right under Rule 24(a)(1) does not apply. *See generally* Wright, Miller & Kane, Federal Practice and Procedure: Civil 3d §§1906, 1910 (observing that statutory rights to intervene are rare and listing all known examples, none of which are applicable here).

C. Proposed Intervenors Are Not Part Of The Crawford Class—And They Identify No "Significant Protectable Interest" Aside From That Assertion.

Proposed Intervenors assert that they have a "significant protectable interest" in this action for purposes of intervention as of right under Rule 24(a)(2) because they are "members of the *Crawford* class." Dkt. 36-1, Memo., pp. 8, 11. According to Proposed Intervenors, they "are members of the plaintiff class who sued the District in *Crawford v. Bd. of Educ.*, 17 Cal.3d 280 (1976) . . ." (Dkt. 36-1, Memo., p. 1) "comprised of all Black and Hispanic students in the District's schools" (Dkt. 36-1, Memo., p. 8). In their account: "Only Intervenors, as *Crawford* Class members, can directly address how the *Crawford* Order's segregation programs benefit their children's education and lives." Dkt. 36-1, Memo., at p. 11. Indeed, they repeatedly refer to themselves as "the *Crawford* Class Intervenors." Dkt. 36-1, Memo., at pp. 2, 6, 8-9.

But the *Crawford* class closed on September 10, 1981, when the *Crawford* litigation concluded with the entry of the trial court's Order re Final Approval of School Board

Desegregation Plan and Discharge of Mandate. *Los Angeles Branch NAACP v. Los Angeles Unified School Dist.*, 750 F.2d 731, 741 (9th Cir. 1984) (en banc) (recognizing that the plaintiff class in *Crawford* remained open until—and not beyond—the final order of the trial court on September 10, 1981, and that students who enrolled in the District after that date did not become members of the *Crawford* class); *see also id.* at 736 n. 4 (recognizing that "all issues arising out of the Crawford proceedings have now been finally resolved"); *Friery v. Los Angeles Unified School Dist.*, 300 F.3d 1120, 1125-26 (9th Cir. 2002) (recognizing the September 10, 1981 order ended the *Crawford* litigation, discharged the court's mandate, and terminated jurisdiction except for the sole purpose of determining attorney's fees); *American Civil Rights Foundation v. Los Angeles Unified School Dist.*, 169 Cal. App. 4th 436, 443-44, 86 Cal. Rptr. 3d 754, 760 (Cal. App. 2008) (recognizing the September 10, 1981 order ended the *Crawford* litigation).

As present LAUSD students, A.M. and E.H., were not born until decades after the *Crawford* class closed. Dkt. 36-2, Declaration of Niglmoro Okuk ("Okuk Dec."), ¶ 3 (A.M. is eight); Dkt. 36-2, Declaration of Latonya Huey ("Huey Dec."), ¶ 3 (E.H. is thirteen). For that matter, Ms. Huey could not have been a member of the *Crawford* class herself since she did not move to Los Angeles until some 25 years ago. Dkt. 36-2, Huey Dec., ¶ 2. And it appears that neither Ms. Huey nor Ms. Okuk are themselves old enough to have been members of the *Crawford* class; their declarations do not say when they were born, nor do they assert that either of them were actual members of the class. Even if they had been members, of course, the characteristics of the District have changed so fundamentally since 1981 that the mere fact of historic membership in the class would have very little meaning to this litigation, or to any litigation taking place in 2026.

To intervene as a matter of right, a proposed intervenor must establish an "interest" under Rule 24 that is direct, non-contingent, substantial and legally protectable, and one that is not adequately represented by the existing parties. *Dilks v. Aloha Airlines, Inc.*, 642 F.2d 1155, 1156-57 (9th Cir. 1981). Here, Proposed Intervenors cannot be acting to protect the interests of the *Crawford* class because the *Crawford* class no longer exists, nor are

they, or were they ever, members of the *Crawford* class. It is unclear—particularly absent a properly attached proposed pleading—what "significant protectable interest" could remain.

D. Proposed Intervenors' Interests Are Adequately Represented By The Current Parties.

Proposed Intervenors' interests are adequately represented by the current parties. The District is clearly committed to defending the PHBAO Program, and the District is represented by experienced and competent litigation counsel. Proposed Intervenors assert that "their counsel offer essential familiarity with the factual and legal issues," and that these "attorneys served as plaintiff class representatives in *Crawford v. Bd. of Educ.*, 17 Cal.3d at 290." Dkt. 36-1, Memo., at p. 12. A quick check of the attorney search feature of the California State Bar's website,[1] however, reveals that the attorneys for the plaintiffs in *Crawford* have long since passed away, or have moved on to other employment.[2] And none of the attorneys appearing for Proposed Intervenors in this matter are among them. This is of course no surprise, since the *Crawford* action was filed 63 years ago. To the extent that Proposed Intervenors' "legal representatives … have long challenged racial segregation and supported remedies for race discrimination" (Dkt. 36-1, Memo., at p. 12), that covers a wide swath of attorneys who practice in the civil rights arena.

The main case cited by Proposed Intervenors on this point (Dkt. 36-1, Memo., p. 11), *Johnson v. San Francisco Unified School District*, 500 F.2d 349 (9th Cir. 1974), is plainly distinguishable, in that it involved a proposed intervention by the parents of school children of Chinese ancestry who were opposed to a plan for the compulsory reassignment of these students to schools outside the areas in which they resided—a plan that had been authored by the defendant school district itself. *Id.* at 352, 354. In this case, the alignment of the parties is the opposite; the District and the Proposed Intervenors are on the same

[1] Https://www.calbar.ca.gov/.

[2] It appears that the only lawyer who represented the *Crawford* plaintiffs at any point in time who is still alive today is Mark Rosenbaum, and he only worked on the final stage of the case. Mr. Rosenbaum is now employed by Public Counsel.

side. Proposed Intervenors do not identify any specific respect in which their positions differ now or are likely to differ in the future from those of the District. "'[W]here [a] party and the proposed intervenor share the same ultimate objective, a presumption of adequacy of representation applies,'" and "[s]uch presumption can only be rebutted by 'a compelling showing to the contrary.'" *Freedom from Religion Found.*, 644 F.3d at 841 (quoting *Perry*, 587 F.3d at 951); *see also Brumback v. Ferguson*, 343 F.R.D. 335, 342-44 (E.D. Wash. 2022) (presumption applies where intervenor shares the same position as government defendant). Proposed Intervenors have not overcome the presumption of adequate representation here.

V. PROPOSED INTERVENORS DO NOT SATISFY THE REQUIREMENTS FOR DISCRETIONARY INTERVENTION

Discretionary intervention should be denied for the same reasons as should intervention as of right; the analysis is largely the same.

Proposed Intervenors have failed to attach the pleading required by Rule 24(c).

The motion is not timely as required by Rule 24(b)(1).

There is no statute giving Proposed Intervenors a conditional right to intervene under Rule 24(b)(1)(A).

Proposed Intervenors have not identified a claim or defense that shares with the main action a common question of law or fact as required by Rule 24(b)(1)(B).

Proposed Intervenors' interests are adequately represented by the current parties.

Lastly, intervention would unduly delay and prejudice the adjudication of the original parties' rights, contrary to Rule 24(b)(3).

VI. CONCLUSION

For the foregoing reasons, the Court should deny Proposed Intervenors' motion to intervene.

Dated: July 9, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned counsel of record for Plaintiff-Intervenor United States of America certifies that the memorandum of points and authorities contains 2,562 words, which complies with the word limit of Local Rule 11-6.1.

Dated: July 9, 2026

/s/ J. Robert Renner
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