

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Blanche M. Manning	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 CV 9370	DATE	October 16, 2008
CASE TITLE	<i>Rubin v. Islamic Republic of Iran</i>		

DOCKET ENTRY TEXT

The motion to intervene [375-1] filed by the plaintiffs in *Peterson v. Islamic Republic of Iran*, No. 08 CV 1592, is granted.

■ [For further details see text below.]

Docketing to mail notices.

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STATEMENT

The instant proceeding in aid of execution involves attempts to collect artifacts from Iran that are in the possession of the University of Chicago's Oriental Institute in order to satisfy a judgment obtained by victims of terrorist activity linked to Iran. *See* Fed. R. Civ. P. 69(a) (governing proceedings in aid of execution). The plaintiffs original to this suit are led by Jenny Rubin, who obtained a judgment exceeding \$400 million against Iran in federal district court in the District of Columbia in 2003. Rubin served a citation to discover assets on the University which she contends, under applicable state law, created a lien on the artifacts. *See* Fed. R. Civ. P. 69(a)(1) (federal procedures on execution "must accord with the procedure of the state where the court is located.").

A second group of plaintiffs seek to intervene, led by Deborah Peterson, who obtained a judgment against Iran exceeding \$2 billion in federal district court in the District of Columbia in 2007. Peterson has also served a citation upon the University of Chicago's Oriental Institute, purporting to create a lien on the Iranian artifacts under applicable state law. The citation was served in the case that Peterson filed against Iran, *Peterson v. Islamic Republic of Iran*, No. 08 CV 1592, which is also assigned to this court.

To date, Iran has resisted the plaintiffs' collection efforts, arguing that its artifacts are immune from execution or attachment.

Peterson seeks to intervene into the *Rubin* proceeding under Federal Rule of Civil Procedure 24(a). According to Rule 24(a):

the court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by a federal statute; or

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- (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.

Fed. R. Civ. P. 24(a). Peterson does not seek permissive intervention under Rule 24(b), so the court will not address permissive intervention any further.

In support of the motion to intervene, Peterson argues that she is entitled to intervene because (1) a federal statute gives her an unconditional right to do so, and (2) if Rubin succeeds in executing upon the Iranian artifacts, Peterson will be unable to protect her interests in those artifacts unless she is allowed to intervene. The court will address each argument in turn.

Federal Statute

First, Peterson contends that under Rule 24(a)(1) she is entitled to intervene because a federal statute gives her an unconditional right to do so. However, the statute she identifies as the source of the right to intervene—735 Ill. Comp. Stat. 5/2-1402(g)—is a state statute. Peterson argues that the state statute is the functional equivalent of a federal statute because this proceeding is governed by Federal Rule of Civil Procedure 69(a) which, in turn, looks to the “procedure of the state where the court is located.” However, she cites no authority to support her contention that Rule 69(a) has the effect of, as she puts it, “federalizing” 5/2-1402(g), nor has the court found any. Additionally, the court has found no authority to support Peterson's argument that a Rule of Civil Procedure can be the source of an unconditional right to intervene under Rule 24(a)(1). *See, e.g., 7C CHARLES ALAN WRIGHT, ARTHUR R. MILLER & MARY K. KANE, FEDERAL PRACTICE AND PROCEDURE* § 1906 (3d ed. 2007 & Supp. 2008) (reviewing sources of unconditional statutory right to intervene, all of which are statutes and none of which are a Rule of Civil Procedure).

Peterson asserts only cursorily that the Illinois statute she has identified has been “federalized,” without citing any authority that state statutes can ever be federalized for purposes of Rule 24(a)(1). The assertion is undeveloped, and unsupported by any authority that a state statute can ever be “federalized” for purposes of Rule 24(a)(1). Accordingly, the assertion is forfeited. *See de la Rama v. Ill. Dept. of Human Servs.*, 541 F.3d 681, 688 (7th Cir. 2008) (undeveloped arguments unsupported by authority are forfeited).

Interests in Property

As noted above, under Rule 24(a)(2), the court must permit anyone to intervene who “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.” Peterson contends that the court must allow her to intervene because of her interest in the Iranian artifacts, as evidenced by the lien she contends that she obtained when she served the University with a citation to discover assets. In fact, Peterson argues, her interest is superior to any interest that Rubin has because, according to Peterson, Rubin's purported lien was not served properly and is therefore invalid.

Rubin responds that her lien was properly served, is valid, and is superior to Peterson's lien, and therefore the motion to intervene should be denied.

The parties' arguments over whose lien is superior are premature. The relevant fact is that Peterson “claims”

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an interest in the artifacts and that interest may be “impair[ed] or impede[d]” if the Rubin plaintiffs prevail and Peterson is not allowed to participate in order to protect her claimed interest. Under this circumstance, the court “must” allow Peterson to intervene. *See* Rule 24(a)(2).

The court reiterates that arguments over whether the parties’ liens are valid, whose lien is superior, and whether the artifacts are immune from attachment are premature, and therefore the court expresses no opinion on those topics at this time.

CONCLUSION

The motion to intervene [375-1] filed by the plaintiffs in *Peterson v. Islamic Republic of Iran*, No. 08 CV 1592, is granted.

rs/cpb