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UNITED STATES COURTS  
DISTRICT OF IDAHO

JUL 11 2003

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

BRITTNEY BAKER,	)	Case No. CIV-03-221-E-BLW
	)	
Plaintiff,	)	
	)	
v.	)	
	)	MEMORANDUM IN SUPPORT OF
	)	BRITTNEY BAKER'S MOTION
TELE-SERVICING INNOVATIONS,	)	TO INTERVENE
INC.,	)	
	)	
Defendant.	)	
_____	)	

Brittney Baker (hereinafter called "Intervenor") requests that the court enter an order granting her Motion to Intervene in this action pursuant to FRCP 24(a) and 42 U.S.C. §2000e-5(f)(1).

INTRODUCTION

Plaintiff EEOC filed this lawsuit against Tele-Servicing Innovations, Inc., (hereinafter called "Defendant") on June 5, 2003. In its complaint against Defendant, Plaintiff has alleged that

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Defendant unlawfully terminated Intervenor in retaliation for her participation in protected EEO activity, including the filing of internal complaints of sexual harassment and/or harassment based on her gender, in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-5(f)(1) ( *see* Complaint, ¶ 7).

Brittney Baker, who is the aggrieved individual that the EEOC alleges Defendant unlawfully fired, requests that the court allow her to intervene pursuant to 42 U.S.C. §2000e-5(f)(1) and FRCP 24(a) to individually assert claims of sex discrimination and/or harassment and retaliation under Title VII and Idaho state law, wrongful termination, and for negligent or intentional infliction of emotional distress under Idaho law. A copy of Ms. Baker's Complaint setting forth these federal and state claims is attached as Exhibit A to the Motion for Intervention filed herewith.

**TITLE VII ALLOWS MS. BAKER TO INTERVENE  
AS A MATTER OF RIGHT**

Ms. Baker is entitled to intervene in this action to assert individual discrimination claims pursuant to 42 U.S.C. §2000e-5(f)(1). That statute provides in relevant part:

(1) If within 30 days after a charge is filed with the Commission [EEOC]...the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge...The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission..."

Pursuant to Fed.R.Civ.P. 24(a)(1), "anyone shall be permitted to intervene in an action: when a statute of the United States confers and unconditional right to intervene." It is well settled

that under the circumstances presented here, Ms. Baker has an unconditional right to intervene pursuant to 42 U.S.C. § 2000e-5(f)(1). *See Truvillion v. King's Daughters Hosp.*, 614 F.2d 520, 525 (5<sup>th</sup> Cir. 1980); *EEOC v. Contour Chair Lounge Co.*, 596 F.2d 809 (8<sup>th</sup> Cir. 1979). *See also EEOC v. Goodyear Aerospace Corp.*, 813 F.2d 1539, 1542 (9<sup>th</sup> Cir. 1987) ("If the EEOC brings an action [under Title VII], the charging [party] has the right to intervene.").

**MS. BAKER IS ALSO ENTITLED TO ASSERT  
STATE LAW AND OTHER FEDERAL CLAIMS**

In the complaint attached as Exhibit A to Ms. Baker's Motion for Intervention, she asserts federal and state law claims of sex discrimination and/or harassment under Title VII, and similar state law discrimination claims, as well as state law wrongful discharge claims and infliction of emotional distress. Ms. Baker is entitled to assert these additional claims beyond the scope of those asserted by the EEOC. *See e.g. EEOC v. National Children's Center, Inc.*, 98 F.3d 1406, 1408 (D.C.Cir. 1996)(two individual employees intervened alleging violations of Title VII and state law); *EEOC v. Clear Lake Dodge*, 60 F.3d 1146 (5<sup>th</sup> Cir. 1995) (employee intervened personally to raise state law claims).

Here, there would be no limitations on Ms. Baker's ability to bring her additional federal and state law claims if she were pursuing her own Title VII lawsuit without the EEOC. Neither is she precluded from doing so in intervention. All of her claims arise out of the same facts, and judicial economy justifies bringing all such claims in the same action.


CONCLUSION

For the reasons stated, the court should enter an order granting Intervenor Brittney Baker the right to intervene in this action, and to file the complaint attached to the motion submitted herewith.

DATED this 7 day of July, 2003.

THOMSEN STEPHENS LAW OFFICES

By:

  
\_\_\_\_\_

T. Jason Wood, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that on the 7 day of July, 2003, I caused a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF BRITTNEY BAKER'S MOTION TO INTERVENE to be served upon the following persons at the addresses below their names either by depositing said document in the United States mail with the correct postage thereon or by hand delivering or by transmitting by facsimile as set forth below.

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By: 

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