

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
CONVERGYS CUSTOMER)
MANAGEMENT GROUP, INC.,)
)
Defendant.)

No. 4:04-CV-846 CAS

MEMORANDUM AND ORDER

This matter is before the Court on the motion of movant Ahmet Demerelli to intervene in this matter. Defendant Convergys Customer Management Group, Inc. ("Convergys") did not file a motion in opposition. For the following reasons, the Court will grant the motion.

This action was commenced on July 8, 2004, when the Equal Employment Opportunity Commission ("EEOC") filed a complaint against Convergys. The complaint alleges that Convergys violated Title I of the American with Disabilities Act of 1991, 42 U.S.C. § 12112(a) ("ADA"), by committing unlawful employment practices with respect to its employee Ahmet Demerelli, by failing to provide reasonable accommodation for Demerelli's disability and terminated him because of his disability. On August 10, 2004, Demerelli filed an intervenor complaint without leave of court. This case was reassigned to the undersigned on September 10, 2004. Demerelli filed his motion to intervene on November 16, 2004.¹ The complaint filed by Demerelli alleges violation of the Americans with Disabilities Act based on the same conduct as alleged in the original complaint.

¹The Court notes that movant's motion to intervene does not have an accompanying memorandum of law with citations of authorities supporting the intervention or cite any authorities in the motion. See E.D. Mo. L.R. 4.01(A). Nevertheless, the Court will grant the motion.

Under 42 U.S.C. § 2000e-5(f)(1), an aggrieved employee has an absolute right to intervene in a civil action brought by the EEOC. 42 U.S.C. § 2000e-5(f)(1); see EEOC v. Contour Chair Lounge Co., 596 F.2d 809 (8th Cir. 1979). Federal Rule of Civil Procedure 24(a), however, imposes the requirement that the application to intervene be timely. Nevilles v. EEOC, 511 F.2d 303 (8th Cir. 1975). Thus, plaintiff's motion should be analyzed under Federal Rule of Civil Procedure 24(a). Rule 24(a)(2) provides that a timely motion to intervene shall be granted if: (i) the proposed intervenor claims an interest relating to the property or transaction which is the subject of the action; (ii) the interest may be impaired; and (iii) the interest is not adequately represented by an existing party to the action. See Jenkins by Jenkins v. State of Missouri, 78 F.3d 1270, 1274 (8th Cir. 1996); Kansas Public Employees Retirement System v. Reimer & Koger Assocs., Inc., 60 F.3d 1304, 1307 (8th Cir. 1995). Further, as a threshold matter, a proposed intervenor under Rule 24 must have Article III standing. Curry v. Regents of the Univ. of Minn., 167 F.3d 420, 422 (8th Cir. 1999). Standing under Article III of the Constitution requires that a would-be litigant make a showing of three elements: (i) an "injury in fact", which is an invasion of a legally protected interest that is concrete, particularized and either actual or imminent; (ii) the existence of a causal connection between the alleged injury and the conduct being challenged; and (iii) redressability; i.e., that the injury is likely to be remedied by a favorable decision. Id.

The Court finds that movant Ahmet Demerelli has standing because he alleges an injury in fact, i.e., a violation of the ADA, there is a causal connection between his alleged injury and the conduct of the defendant being challenged, and the injury is likely to be remedied by a favorable decision. The Court also finds that Demerelli's motion to intervene is timely, and that he meets the elements of Rule 24(a). The first element is easily satisfied, because Demerelli claims an interest in the resolution of claims that his employer failed to provide reasonable accommodations for his

disability, brittle bone disease, and terminated him because of it. The second and third elements are also satisfied, as the EEOC is entrusted with the obligation to assert the public interest with respect to violations of the ADA, while Demerelli is interested in exercising his rights under all available statutory remedies. Demerelli's rights may be impaired if he is not permitted to intervene to assert these interests. Therefore, the motion to intervene should be granted.

Accordingly,

IT IS HEREBY ORDERED that movant Ahmet Demerelli's motion to intervene is **GRANTED**. [Doc. 17]

IT IS FURTHER ORDERED that the Clerk of Court shall amend the caption of this case to read as follows: Equal Employment Opportunity Commission, plaintiff and Ahmet Demerelli, plaintiff/intervenor v. Convergys Customer Managment Group, Inc., No. 4:04-CV-846 CAS. The parties shall use this caption on all future pleadings.

IT IS FURTHER ORDERED that defendant shall file its response to plaintiff/intervenor's complaint within twenty (20) days of the date of this memorandum and order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 10th day of December, 2004.