UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re BLACK FARMERS DISCRIMINATION LITIGATION	))))	Misc. No. 08-0511 (PLF)

MEMORANDUM OPINION AND ORDER

Before the Court is a motion to intervene by Gregory K. Chestnut, Administrator of the Estate of J. L. Chestnut, Jr. ("the Estate"). See Dkt. No. 181 ("Mot."). This motion arises from a financial dispute between the estate of J. L. Chestnut — who participated as counsel in cases that were consolidated into this miscellaneous action before he passed away in 2008 — and two of his former law partners who are among the attorneys presently serving as class counsel, Henry Sanders and Fayarose Sanders. The Estate contends that it is entitled to intervene because it has an interest in the attorneys' fees that ultimately will be awarded to class counsel in this action, "in particular those fees to be allocated to Henry Sanders and Fayarose Sanders of Chestnut Sanders, Sanders, Pettaway & Campbell[.]" Mot. at 1. In other words, the Estate believes it is entitled to a portion of any attorneys' fees obtained by Mr. Sanders and Ms. Sanders in this case, and it asserts this interest "for the purpose of protecting the lawful right of J. L. Chestnut, Jr. to attorneys' fees earned and due from his prosecution of this action." Id. at 2.

Intervention as a matter of right is available to a party 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, unless existing parties adequately represent that interest." FED. R. CIV. P. 24(a)(2) (emphasis added). It is doubtful that the attorneys' fees apportioned among class counsel in this

action qualify as "the property or transaction that is the subject of the action" under Rule 24. Cf. Butler, Fitzgerald & Potter v. Sequa Corp., 250 F.3d 171, 177 (2d Cir. 2001) ("[T]he interest of discharged counsel in their attorney's fees is unrelated to the underlying cause of action. Hence, that interest does not present a particularly persuasive argument for intervention."). Even if the Estate's interest in class counsel's fees were the type of interest recognized by Rule 24(a)(2), the Estate has not demonstrated that it is "so situated that disposing of the action may as a practical matter impair or impede [its] ability to protect its interest." The Estate already has filed an action in Alabama state court for dissolution, an accounting of worth, and equitable division of the assets of the Chestnut Sanders law firm. Mot. at 2 n.2; see Dkt. No. 199-1 (state court complaint). That action is the proper forum in which to resolve disputes about the division of assets among the former partners of Chestnut Sanders, including assets generated as attorneys' fees in this case. The Estate has failed to show that an award of such fees pursuant to the settlement agreement reached by the parties will impair any claim it has to Chestnut Sanders' portion of the fees. As noted by class counsel in opposing the motion to intervene, "the Estate is well-positioned to seek an order from the Alabama court where its Petition is pending directing the Chestnut Sanders firm to escrow any attorneys' fees paid to it from the instant case, pending resolution of the substantive claims presented in the Alabama case." Dkt. No. 189 at 3 ("Opp.").

Nor is permissive intervention appropriate under Rule 24(b). That provision requires that the movant have "a claim or defense that shares with the main action a common question of law or fact." FED. R. CIV. P. 24(b)(1)(B). The Estate has not sought permissive intervention, presumably in recognition that it cannot satisfy this criterion. See Opp. at 4 ("Indeed, the division of assets among partners in a single law firm is a far cry from the Class

claims seeking a determination on the merits of their discrimination claims against USDA that form the crux of the instant case.").

As an alternative to granting the motion to intervene, the Estate requests that the Court "enter an order limiting the disbursement of the attorneys fees to Henry Sanders, Fayarose Sanders, and Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC, so that the Estate of J. L. Chestnut, Jr. can protect its interest in the pending state court action in Alabama." Mot. at 2. The Estate has offered no reason to believe that the Alabama proceedings will not protect any interest it may have in the attorneys' fees awarded by this Court. Without any compelling reason to do so, the Court will not disturb the terms of the settlement agreement and in the process make this action a platform for intra-law-firm financial disputes that are properly resolved elsewhere.[1]

Accordingly, it is hereby

ORDERED that the Motion to Intervene by Gregory K. Chestnut, Administrator of the Estate of J. L. Chestnut, Jr. [Dkt. No. 181] is DENIED.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: 7\11\12

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[1] Granting the Estate's motion and entertaining its claim would oblige the Court to resolve questions under Alabama state law about the proper distribution of assets among the former partners of the Chestnut Sanders law firm. Those are precisely the questions before the Alabama state court in the dissolution proceeding initiated by the Estate, and this Court's parallel adjudication of the same questions would raise concerns stemming from the federal court abstention doctrine. See Opp. at 4-5 (citing Colorado River Water Conservation Dist. v. United States, 424 U.S. 800 (1976)). Because the Estate has not demonstrated its right to intervene under Rule 24, the Court need not determine whether it has the authority to resolve these questions or whether doing so would run afoul of the abstention doctrine.