

STATE OF NORTH CAROLINA

CASWELL COUNTY

Richard David Wrenn, et al.,

Plaintiffs,

vs.

Caswell County Board of Elections, et al.,

Defendants,

and

The North Carolina State Conference of
NAACP Branches

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
00-CVS-21 CVS 363

FILED
2021 NOV 24 P 12:19

CASWELL CO., C.O.C.

**MOTION TO INTERVENE AS
DEFENDANT**

COME NOW the North Carolina State Conference of the National Association for the Advancement of Colored People Branches (the “NC NAACP” or “NAACP Proposed Intervenor”) and pursuant to Rule 24(a)(2) of the North Carolina Rules of Civil Procedure moves to intervene as of right as defendant in this matter, or in the alternative, moves for permissive intervention pursuant to Rule 24(b).

1. The NC NAACP meets all the requirements for intervention of right under Rule 24(a)(2) of the N.C. Rules of Civil Procedure, which permits intervention as of right “upon timely application” “[w]hen the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.”

2. *First*, the motion is timely. The complaint in this action was filed less than a week ago, on November 16, 2021. No hearings have been held in this matter and the time to respond to Plaintiffs’ Complaint or their motion for a temporary restraining order has not lapsed.

3. *Second*, the NC NAACP has a direct interest relating to the subject of this action. The NC NAACP is the endorsed representative of the NAACP in this matter, and NAACP was the plaintiff in *NAACP v. Caswell County*, No. C-86-676-G (M.D.N.C. Apr. 13, 1988) and *NAACP v. Caswell County Bd. Of Educ.*, No. C-86-708-G (M.D.N.C. Apr. 13, 1988). These cases, which alleged that the Caswell County election system violated Section 2 of the Voting Rights Act, were settled, and a federal consent order (attached to Plaintiffs' Complaint as Ex. C) was entered as part of that settlement. The national NAACP is the nation's oldest and largest civil rights organization. The NC NAACP is the representative of the national NAACP in North Carolina and has members in Caswell County. NAACP Proposed Intervenor's mission is to ensure the political, social and economic equality of rights of all persons and to eliminate racial hatred and discrimination. The NC NAACP is active in the fight to protect the vote, and has filed lawsuits and organized civic education and advocacy campaigns to enforce the right to vote for the benefit of its members.

4. The disposition of Plaintiffs' action directly implicates the NC NAACP's interests. Plaintiffs allege that the resolution they challenge does not comply with the federal consent order and that changes in the law may affect the proper reading of that consent order. Compl. ¶¶ 6, 29–33; *see also id.* Ex. F. The NAACP, by settling its previous claims with Caswell County, entered into a contract with Caswell County. *Powell v. City of Newton*, 364 N.C. 562, 566 (2010) (“A settlement agreement such as the one here is a contract subject to the ordinary rules governing such instruments.”). Plaintiffs' Complaint seeks an interpretation of that contract, including of Caswell County's obligations under the agreement. As the North Carolina representative of the counterparty to that binding agreement, the NC NAACP has a legally protected interest in that contract's interpretation.

5. *Third*, the existing parties do not adequately represent the NC NAACP’s interests. Plaintiffs are seeking to narrow the interpretation of the federal consent order—and thus the protections it affords—not maintain it. Defendants are Caswell County—the entity sued in the prior litigation—and its representatives. Obviously they may not fully share the NC NAACP’s interest in protecting the NAACP’s contractual rights. And, of course, Caswell County’s interest in representing the general public interest includes not only those members of the NC NAACP in Caswell County, but also other Caswell County residents, including Plaintiffs. Thus, Caswell County cannot fully and adequately protect the NC NAACP’s interests here.

6. Alternatively, the NC NAACP also meets the requirements for permissive intervention pursuant to Rule 24(b)(2). Under that section, a timely applicant must show their “claim or defense and the main action have a question of law or fact in common. In exercising its discretion, the court shall consider whether the intervention dispute will unduly delay or prejudice the adjudication of the rights of other parties.” As discussed above, the NC NAACP’s claim that the federal consent order requires maintaining diverse districts in Caswell County and that the current redistricting plan enacted by Caswell County is lawful obviously presents questions of law and fact in common with the pending action. Finally, the intervention will neither unduly delay nor prejudice the adjudication, due to the virtually complete overlap of questions of law and fact and because the NAACP is seeking intervention at the earliest, most preliminary stage of the case, and will comply with all settled briefing deadlines and hearing dates.

7. Counsel for NC NAACP has conferred with counsel in the case. Defendants consent to the intervention and Plaintiffs do not object to the intervention.

WHEREFORE, the NC NAACP respectfully request that the Court grant its Motion to Intervene of right pursuant to Rule 24(a)(2) of the North Carolina Rules of Civil Procedure, or in the alternative, that it be granted permissive intervention, pursuant to Rule 24(b). The NAACP Proposed Intervenor has attached to this motion a proposed Order granting its motion.

This 24th day of November, 2021.



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PROPOSED ORDER

The North Carolina State Conference of the National Association for the Advancement of Colored People Branches (the “NC NAACP, pursuant to Rule 24(a)(2) of the North Carolina Rules of Civil Procedure, moved for intervention as of right as defendant in this matter, or in the alternative, moved for permissive intervention pursuant to Rule 24(b).

Having fully considered the NAACP Proposed Intervenor’s Motion, it is hereby ORDERED that the Motion is GRANTED under Rule _____ of the North Carolina Rules of Civil Procedure. Accordingly, the NAACP Proposed Intervenor is henceforth a defendant in this action.

This is the ____ date of December, 2021.