UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	**CV 20-8953 FMO (PVCx)**	Date	**November 10, 2021**
Title	**Vanessa Bryant, et al. v. Island Express Helicopters, Inc., et al.**		

Present: The Honorable	Fernando M. Olguin, United States District Judge	
V.R. Vallery for G. Garcia	None	None
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorney Present for Plaintiff(s):	Attorney Present for Defendant(s):	
None Present	None Present	

Proceedings: (In Chambers) Order Re: Motion to Intervene [78]

Having reviewed and considered all the briefing filed with respect to Proposed Intervenors Sports Academy, LLC Sports Academy ("Sports Academy") and The Hartford Accident and Indemnity Company's ("Hartford") Motion for An Order Granting Leave to File a Complaint-In-Intervention (Dkt. 78. "Motion"), the court concludes that oral argument is not necessary to resolve the Motion, see Fed. R. Civ. P. 78(b); Local Rule 7-15; Willis v. Pac. Mar. Ass'n, 244 F.3d 675, 684 n. 2 (9th Cir. 2001), and concludes as follows.

BACKGROUND

This action arises from the January 26, 2020, helicopter crash in Calabasas, California that resulted in the deaths of Kobe Bryant; his minor daughter, GB; six other passengers, and the pilot, Ara George Zobayan ("Zobayan"). (See Dkt. 71, Consolidated Complaint).[1] Plaintiffs filed four separate actions in the Los Angeles County Superior Court between February and May 2020. (See Vanessa Bryant, et al. v. Island Express Helicopters, Inc., et al., CV 20-8953 ("Bryant"), Dkt. 1-3, First Amended Complaint); (John James Altobelli, et al. v. Island Express Helicopters, Inc., et al., CV 20-8954 ("Altobelli"), Dkt. 1-3, Complaint); (Christopher Chester, et al. v. Island Express Helicopters, Inc., et al., CV 20-8955 ("Chester"), Dkt. 1-3, Complaint); (Matthew Mauser, et al. v. Island Express Helicopters, Inc., et al., CV 20-8956 ("Mauser"), Dkt. 1-3, Complaint)). On August 14, 2020, defendants Island Express Helicopters, Inc. and Island Express Holding Corp. filed cross-complaints against the individual defendants in each case. (See, e.g., Dkt. 1-2, Cross-Complaint). On September 30, 2020, the United States removed all four cases to federal court. (See Dkt. 1). On May 24, 2021, the court issued an order consolidating the four related actions. (See Dkt. 65, Court's Order of May 24, 2021, at 2).

Sports Academy and Hartford filed the instant Motion, seeking to recover "workers' compensation benefits, including death benefits and funeral costs," paid to the Mauser plaintiffs on behalf of decedent Christina Mauser. (See Dkt. 78-1, Memorandum of Points and Authorities

[1] Unless otherwise noted, docket citations refer to those for Case No. CV 20-8953.

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in Support of [ ] Motion [ ] ("Memo") at 6). The United States was the only party that filed an opposition to the Motion. (See Dkt. 85).

DISCUSSION

Under the circumstances, the court finds that intervention is not appropriate, either as of right or permissively. With respect to intervention as of right, a court must permit any party to intervene in a lawsuit 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). Rule 24(a)[2] is broadly construed in favor of intervention. See Cabazon Band of Mission Indians v. Wilson, 124 F.3d 1050, 1061 (9th Cir. 1997). The Ninth Circuit employs four criteria to determine whether intervention under Rule 24(a) is appropriate: (1) the motion to intervene must be timely; (2) the applicant must have a significantly protectable interest related to the property or transaction that is the subject of the action; (3) the applicant must be situated such that the disposition of the action may impair or impede the applicant's ability to protect that interest; and (4) the applicant's interest must not be adequately represented by the existing parties. See Arakaki v. Cayetano, 324 F.3d 1078, 1083 (9th Cir. 2003). The burden falls on the applicant to show that all of the requirements for intervention have been met. See United States v. Alisal Water Corp., 370 F.3d 915, 919 (9th Cir. 2004).

Here, Sports Academy and Hartford contend that their Motion is timely because they "circulated [their] original Complaint-in-Intervention" to the Mauser plaintiffs and certain defendants on January 5, 2021. (See Dkt. 78-1, Memo at 9). As Sports Academy and Hartford acknowledge, the Mauser plaintiffs initially filed their complaint on April 20, 2020, and their action was removed to federal court on September 30, 2020. (See id. at 6-7). Sports Academy and Hartford do not explain why they waited until over a year after Mauser plaintiffs filed their action – and more than nine months after it was removed to federal court – before filing the instant Motion. (See, generally, id. at 9). Nor do they explain the relevance of their communication with Mauser plaintiffs in January 2021, or why that might have justified a further delay in filing their Motion. (See, generally, id.). Thus, the court finds that the Motion is untimely.

Sports Academy and Hartford also contend that, absent intervention, disposition of the action would impair their ability to protect their interests because they have "no other means to protect their right to reimbursement other than through intervention." (Dkt. 78-1, Memo at 11). However, they do not explain why they would be left with "no other means" if they are not permitted to intervene. (See generally id. at 11-12). In fact, they appear to undercut their contention when they later argue in their brief that under California law, "where a defendant is

[2] All further "Rule" references are to the Federal Rules of Civil Procedure unless otherwise indicated.

aware of the employer's reimbursement claim at the time of settlement, and fails to obtain an employer's consent to settlement, the third-party tortfeasor enters into settlement 'at its own peril' and the settlement is not binding on the employer." (Id. at 15). By arguing that a settlement in this case will not bind them, (see id.), Sports Academy and Hartford imply that they have a right to bring their claims in a separate action. Thus, it is unclear why they would have "no other means" to protect their interests if they are not permitted to intervene in this action.

Having failed to satisfy at least two of the requirements for intervention pursuant to Rule 24(a), the court is not persuaded that Sports Academy and Hartford have met their burden for intervention as of right.

With respect to permissive intervention under Rule 24(b), a court may grant permissive intervention where: (1) the applicant shows independent grounds for jurisdiction; (2) the motion is timely; and (3) the applicant's claim or defense and the main action share a common question of law of fact. See Freedom from Religion Foundation, Inc. v. Geithner, 644 F.3d 836, 843 (9th Cir. 2011). In exercising its discretion on an application for permissive intervention, the court "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). As noted, Sports Academy and Hartford waited over a year to file the instant Motion after the Mauser action began. (See Dkt. 78-1, Memo at 6, 9). Because the court finds this unexplained delay renders the Motion untimely and risks delaying or prejudicing the adjudication of the original parties' rights, the court declines Sports Academy and Hartford's request for permissive intervention.

CONCLUSION

Based on the foregoing, IT IS ORDERED THAT:

1. The Motion for An Order Granting Leave to File a Complaint-In-Intervention (**Document No. 78**) is **denied**.

2. The Ex Parte Application Requesting the Court to Issue Its Order (**Document No. 107**) is **denied** as moot.