

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

)	
NATIONAL ASSOCIATION OF)	
HOME BUILDERS OF THE)	
UNITED STATES, <i>et al.</i> ,)	
)	
Plaintiffs,)	CIV-17-009-R
)	
v.)	
)	
EDWARD C. HUGLER, ACTING)	
SECRETARY OF LABOR,)	
in his official capacity, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**MOTION TO INTERVENE AS DEFENDANTS
BY PUBLIC CITIZEN HEALTH RESEARCH GROUP,
AMERICAN PUBLIC HEALTH ASSOCIATION,
COUNCIL OF STATE AND TERRITORIAL EPIDEMIOLOGISTS,
AND CENTER FOR MEDIA AND DEMOCRACY**

Pursuant to Federal Rules of Civil Procedure 24(a)(2) and 24(b)(1), Public Citizen Health Research Group, American Public Health Association, Council of State and Territorial Epidemiologists, and Center for Media and Democracy (collectively, “Public Health Intervenors”) move to intervene as defendants in this case. As explained in the accompanying memorandum, the Public Health Intervenors have interests in preserving the Rule challenged by plaintiffs, disposition of this action in their absence would likely impair or impede their interests, and none of the parties can be counted on to protect their interests. Thus, the Public Health Intervenors are entitled to intervention as of right under

Rule 24(a)(2). In the alternative, this Court should permit the Public Health Intervenors to intervene under Rule 24(b)(1).

Further, the Public Health Intervenors will not duplicate the efforts of the American Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC (“USW”) (collectively, “Union Intervenors”), because the Public Health Intervenors intend to concentrate their efforts on the defense of the electronic reporting and public disclosure requirements of the Rule, which are not a focus of the Union Intervenors.

Although Federal Rule of Civil Procedure 24(c) states that a motion to intervene must be accompanied by a pleading, on March 13, 2017, this Court ordered the parties to file a proposed summary judgment briefing schedule by April 10, 2017, and extended the deadline for defendants to file an answer to the complaint to fourteen days after the resolution of the parties’ dispositive motions. Doc. 38. Therefore, the Public Health Intervenors have not submitted a responsive pleading at this time. If this motion is granted, the Public Health Intervenors will adhere to the summary judgment briefing schedule entered by the Court.

Dated: March 21, 2017

Respectfully submitted,

s/ Michael T. Kirkpatrick

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(motion to appear pro hac vice to be filed)

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Counsel for Public Health Intervenors

CERTIFICATE OF CONFERENCE

I contacted an attorney for each party to determine whether this motion is opposed. On March 15 and 16, 2017, I conferred with defendants' counsel, Michael H. Baer, who stated that defendants oppose intervention as of right, but take no position with respect to permissive intervention. On March 15, 2017, I conferred with counsel for the Union Intervenors, Randy Rabinowitz, who stated that Union Intervenors do not oppose this motion. On March 20, 2017, I conferred with plaintiffs' counsel, Tressi L. Cordaro, who stated that plaintiffs will oppose this motion.

s/ Michael T. Kirkpatrick
Michael T. Kirkpatrick

CERTIFICATE OF SERVICE

I certify that on March 21, 2017, I filed the attached document with the Clerk of the Court using the Court's ECF system. Based on the records currently on file in this case, the Clerk of the Court will transmit a Notice of Electronic Filing to those registered participants of the ECF system.

s/ Matthew J. Sill
Matthew J. Sill