THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ISAAC HARRIS, et al. Plaintiffs, RAFIQ ABUL-QASIM, et al. Plaintiff-Intervenors, v. MEDICAL TRANSPORTATION MANAGEMENT, INC., Defendant.	)	Civil Action No.: 1:17-cv-01371 (APM)

PLAINTIFF-INTERVENORS' MOTION FOR LEAVE TO INTERVENE AND PLAINTIFFS' MOTION TO AMEND THE COMPLAINT

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Proposed Plaintiff-Intervenors—172 current and former non-emergency medical transportation ("NEMT") drivers who performed work under Defendant Medical Transportation Management, Inc.'s ("MTM's") contracts with the District of Columbia (collectively, the "Driver-Intervenors")—respectfully move, pursuant to Federal Rule of Civil Procedure 24(a) and, in the alternative, Rule 24(b), for leave to intervene as plaintiffs in this action.

The Driver Intervenors seek to assert the same wage-and-hour and related claims already at issue in this case under the D.C. Minimum Wage Act ("MWA"), the D.C. Living Wage Act ("LWA"), and the D.C. Wage Payment and Collection Law ("WPCL"), arising out of MTM's D.C. Medicaid transportation contracts. Those Driver-Intervenors that were previously members of the collective action certified by this Court also assert the same Fair Labor Standards Act ("FLSA") claims brought by the original plaintiffs Isaac Harris, Leo Franklin, and Darnell Frye.[1]

In addition to seeking leave for the Driver-Intervenors to join this action, Plaintiffs also seek leave to amend the operative complaint so that it conforms to the procedural history that has developed in this case. The Complaint-in-Intervention does not enlarge the claims or add new legal theories; it updates the allegations to reflect the Court's rulings and pleads claims on an individualized basis for each Plaintiff and Driver-Intervenor consistent with the Court's directive. The proposed Amended Complaint and Complaint-in-Intervention is attached to this motion as Exhibit A.

Per Local Civil Rule 7(m), undersigned counsel conferred with counsel for MTM regarding this motion. MTM states that it does not consent to the relief sought in this motion.

[1] Although the Court granted summary judgment to MTM on Plaintiffs' FLSA joint-employment theory, *see* Dkt. No. 254, the Driver Intervenors who opted in to the FLSA collective preserve their FLSA claims against MTM for purposes of a possible reconsideration, including on future appeal.

I. BACKGROUND

After certifying an issue class of NEMT drivers to resolve, on a common basis, whether MTM is a joint employer under the FLSA and/or a "general contractor" under District of Columbia wage law, the Court granted partial summary judgment in Plaintiffs' favor on the "general contractor" issue while denying it on joint employment. Dkt. No. 254. The Court then entered a separate order granting MTM's motion for summary judgment on the joint-employment issue. Dkt. No. 261. In light of these rulings, the Driver Intervenors seek to pursue their D.C. wage-and-hour claims on an individual basis, relying on the Court's binding determination that MTM is a general contractor liable for wage violations by its subcontractor transportation service providers ("TSPs").

A. The Post-Issue-Class Structure and Invitation to Intervene

Having resolved the common liability issues via the Rule 23(c)(4) issue class, the Court ordered a process for class notice and subsequent intervention by individual drivers. In its May 19, 2025, Order, the Court directed the parties to propose a notice plan to the issue class; provided that issue-class members would have 60 days from notice issuance to "inform Class Counsel of their interest to move to intervene on an individual basis"; and ordered that "[i]ntervenors will file a motion to leave to intervene and a complaint-in-intervention [within] 60 days after the end of the notice period." Dkt. No. 262. The Court extended to November 21, 2025, the deadline for filing this motion to intervene and Complaint-in-Intervention. Dkt. No. 270.

Pursuant to the Court-approved notice, 175 class members, including the Plaintiffs, notified Class Counsel that they wished to intervene and pursue their individual D.C. wage claims against MTM based on the Court's general-contractor ruling. After the notice period closed, Class Counsel conducted thorough interviews with each driver, which included discussions of their employment at various TSPs with which MTM subcontracts or has subcontracted, as well as reviewing

documentation. During this process, some drivers concluded that they no longer wanted to pursue their claims against MTM or became unresponsive to outreach from counsel; none of these drivers comprise the Driver-Intervenors here.

In addition to the individuals Class Counsel identified and transmitted to MTM's counsel on August 26, 2025, the Driver-Intervenors also seek leave for an additional five class members who expressed interest in remaining in the case after the August 23, 2025 deadline, to intervene: Boki Akesse, Willette Brice, Angela Gray, Shekita McBroom, and Stacey Williams (collectively, "the belated intervenors"). Each belated intervenor is a member of the issue class and wishes to pursue the same wage claims as the other proposed intervenors. While their requests to intervene came after the August 23, 2025, each delay is attributable to circumstances outside the driver's control, not any lack of diligence.

Ms. Brice and Ms. Williams were not included on the class list MTM provided and therefore never received postcard notice of the intervention opportunity; they learned of the next phase of the case through acquaintances only after the deadline and promptly contacted Class Counsel. Mr. Akesse and Ms. Gray were each sent postcard notice to incorrect or outdated addresses and thus did not receive it; Mr. Akesse learned of the case from a friend after the deadline and promptly reached out, and Ms. Gray contacted Class Counsel after the deadline to provide an updated address, at which point she learned of the intervention process and asked to join. Finally, Ms. McBroom was hospitalized during the notice period but still managed to sign her postcard and provide it to hospital staff on August 21, 2025, for mailing; the card is postmarked August 26, 2025, reflecting a delay attributable to the hospital rather than to Ms. McBroom. *See* Exhibit B, Declaration of Shekita McBroom. The Driver-Intervenors submit that, under these circumstances,

the belated intervenors should be permitted to intervene along with the other interested issue-class members.[2]

Through this motion and the appended Amended Complaint and Complaint-in-Intervention, 172 drivers seek to intervene and join the original plaintiffs to pursue their claims.

B. The Driver-Intervenors' Claims

Each Driver-Intervenor is a member of the certified issue class: an NEMT driver who, from July 13, 2014, through March 15, 2024, transported Medicaid beneficiaries pursuant to MTM's contract with the District of Columbia in association with one of MTM's subcontractor TSPs. As set forth in the proposed Amended Complaint and Complaint-in-Intervention, each has one or more claims under District of Columbia wage statutes—including the D.C. Minimum Wage Act, the D.C. Wage Payment and Collection Law, and the D.C. Living Wage Act—arising from the same course of conduct and contractual structure the Court has already analyzed in certifying the issue class and granting summary judgment on the general contractor issue.

II. ARGUMENT

A. The Driver-Intervenors Are Entitled to Intervene as of Right Under Rule 24(a)(2)

Rule 24(a)(2) provides that the Court must permit intervention where a nonparty "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." The D.C. Circuit

[2] Indeed, Driver-Intervenors only seek this exception from the Court for those that could not have met the deadline to notify Class Counsel of their interest in remaining in the case. Several other class members contacted Class Counsel following the deadline seeking to intervene in this action. However, they had timely received the notice by mail and did not encounter circumstances that impeded their ability to provide notice within the Court-imposed deadline. Therefore, Class Counsel notified these individuals that their opportunity to intervene in this action had expired.

requires four elements to establish a right to intervene: (1) timeliness; (2) a cognizable interest; (3) potential impairment of that interest; and (4) inadequate representation. *See In re Brewer*, 863 F.3d 861, 872–73 (D.C. Cir. 2017) (summarizing Rule 24(a)(2) standard). The Driver-Intervenors satisfy each element.

The D.C.-law wage claims asserted in the Complaint-in-Intervention form part of the same case or controversy as the federal and D.C.-law claims asserted in the original pleadings, arising from the same alleged non- or under-payment of NEMT drivers working under MTM's District of Columbia contracts. The Court has already exercised supplemental jurisdiction over these D.C.-law claims, and in circumstances such as these—where the Court has overseen the proceedings for eight years and ruled on multiple dispositive motions—the Court has the discretion to retain supplemental jurisdiction over state-law claims after federal claims are resolved, based on considerations of judicial economy, convenience, and fairness to counsel. *See Shekoyan v. Sibley Int'l*, 409 F.3d 414, 423 (D.C. Cir. 2005) (holding that, pursuant to 28 U.S.C. § 1367, "[a] district court may choose to retain jurisdiction over, or dismiss, pendent state law claims after federal claims are dismissed"); *see also Perry v. Int'l Bhd. of Teamsters*, 247 F.Supp.3d 1, 14 (D.D.C. 2017) (finding "that the lengthy history of litigation in th[e] case—which deal[t] with facts that occurred six years [prior] and which was originally filed three years [prior]," warranted continuing to exercise supplemental jurisdiction); *Harris v. D.C. Water & Sewer Auth.*, 172 F. Supp. 3d 253, 258–60 (D.D.C. 2016) ("[J]udicial economy, convenience, fairness, and comity . . . weigh[ed] in favor" of exercising supplemental jurisdiction over an employee's D.C.-law claims where both parties desired to keep the state-law claims before the district court that had "developed significant familiarity with the facts and legal issues presented" after several years of litigation; the remaining

claims did not involve unsettled state law questions not yet addressed by D.C. courts; and exercising supplemental jurisdiction would not inconvenience or prejudice the parties).

1. *The Driver-Intervenors' Motion is Timely*

Timeliness is a "flexible" concept evaluated in light of all the circumstances, including when the prospective intervenor knew of its interest, prejudice to existing parties, prejudice to intervenors from denial, and the presence of unusual circumstances. *In re Rail Freight Fuel Surcharge Antitrust Litig.*, 300 F.R.D. 19, 22 (D.D.C. 2013); *see Smoke v. Norton*, 252 F.3d 468, 471 (D.C. Cir. 2001) (holding that the timeliness of a motion to intervene must "be judged in consideration of all the circumstances") (internal quotation omitted); *100Reporters LLC v. U.S. Dep't of Just.*, 307 F.R.D. 269, 274 (D.D.C. 2014) (identifying relevant factors).

Here, the Court, with input from the parties, structured the post-issue-class phase to invite and channel intervention, expressly directing that those drivers interested in proceeding to the next phase of litigation file their motion for leave to intervene and associated complaint at this time. The Driver-Intervenors have complied with that Court-ordered timetable, filing this motion within the governing deadline as extended by the Court's October 8, 2025, Order. For this reason there is no unfair prejudice to MTM, as it has been on notice since the Court granted class certification on the two issues of joint liability that the potentially hundreds of similarly situated drivers asserting D.C.-law wage claims would need to pursue relief individually. MTM also affirmatively proposed and participated in the scheduling regime that contemplated this intervention process. Further, the procedural posture has only recently crystallized for individual drivers. It was not until the Court's summary judgment ruling and subsequent order granting MTM's motion on the joint-employment issue that the issue class became aware that the remaining litigation would proceed based on MTM's general contractor liability under D.C. wage law, such that drivers could assert their

individual wage claims. The Driver-Intervenors acted within the window the Court prescribed after this structure was set.

2. *The Driver-Intervenors Have A Significant, Protectable Interest in the Subject of This Action*

The Driver-Intervenors experienced the same type of alleged wage and hour violations involving the same general contractor as alleged by the original Plaintiffs, conferring a direct interest in pursuing relief for their unpaid wages.

The Driver-Intervenors are all members of the certified class. In general, class members have a right to appear through counsel. *See* Fed. R. Civ. P. 23(c)(2)(B)(iv). And courts have recognized the important legal interest that class members have in intervening to take over as class representatives if the original representatives no longer pursue class certification. *See In re Brewer*, 863 F.3d at 872–73 (holding that Rule 23(a)(2) interest factor for intervention was satisfied where proposed intervenors experienced the same discriminatory conduct alleged by the named plaintiff: "Because class-wide adjudication of this shared interest [with the original plaintiffs] is 'compatible with efficiency and due process,' [courts in this circuit] have consistently granted motions to intervene as of right in employment discrimination class actions" (internal citation omitted)). The same principle applies here, where there is no option for the original plaintiffs to pursue relief on behalf of the class.

Functionally, "the 'interest' test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Foster v. Gueory*, 655 F.2d 1319, 1324 (D.C. Cir. 1981). As discussed above, while the individual acts of wage theft suffered by the Plaintiffs and the Driver-Intervenors may differ, they each assert their claims as a result of the same "significantly protectable interest," *Donaldson v. United States*, 400 U.S. 517, 531 (1971), in recovering those wages from the same defendant.

3. *Disposition Without Intervention Would Impair the Driver-Intervenors' Interests*

Rule 24(a)(2) requires only that the action's disposition "may as a practical matter" impair or impede the intervenors' ability to protect their interests—a pragmatic, forward-looking inquiry. Without intervention, the Driver-Intervenors would lose the benefit of the Court's carefully constructed structure for resolving their claims—an issue class to establish the defendant's liability, followed by individualized proceedings to establish the fact of unpaid or underpaid wages and their amount.

Furthermore, although this Court has tolled the statute of limitations for the Driver Intervenors, requiring that they start anew in separate lawsuits would invite litigation over timeliness that would be avoided if their claims proceed here as part of the post-issue-class phase. Further, allowing dozens or hundreds of separate actions to proceed in different forums would risk inconsistent rulings on recurring issues of damages methodology, defenses, and application of the Court's general contractor ruling. Where individuals face loss of a meaningful avenue to vindicate their shared claims, the impairment requirement is met. *See In re Brewer*, 863 F.3d at 873.

4. *The Original Plaintiffs Can No Longer Adequately Represent the Driver Intervenors' Interests*

The Supreme Court has explained that the adequate representation requirement of Rule 24(a) "is satisfied if the applicant shows that representation of his interest 'may be' inadequate; and the burden of making that showing should be treated as minimal." *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972); *see also Dimond v. District of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986) (recognizing the standard for establishing inadequate representation is "not onerous"); *United States v. Am. Tel. & Tel. Co.*, 642 F.2d 1285, 1293 (D.C. Cir. 1980) (stating that an applicant "ordinarily should be allowed to intervene unless it is clear that the party will provide

adequate representation for the absentee" (quoting 7A Charles Alan *Wright & Arthur R. Miller*, *Federal Practice & Procedure* § 1909 (1st ed. 1972))).

Here, the three Plaintiffs cannot litigate or resolve all drivers' individual claims on a representative basis. They have their own individualized factual circumstances and damages and cannot adequately represent the 172 drivers who have stepped forward and asked to pursue their own claims.

Because the Driver-Intervenors satisfy all four elements of Rule 24(a)(2), the Court should grant intervention as of right.

B. In the Alternative, the Court Should Permit Intervention Under Rule 24(b)

Even if the Court were to conclude that intervention as of right is not required, it should exercise its discretion to permit intervention under Rule 24(b).

Permissive intervention authorizes those who "ha[ve] a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24. The decision to allow permissive intervention is committed to the Court's discretion, and the Court must consider whether intervention will unduly delay or prejudice the adjudication of the original parties' rights. *Defs. of Wildlife v. Salazar*, No. 12-1833, 2013 WL 12317455, at *1 (D.D.C. Apr. 29, 2013).

Here, as described in detail above, the Driver-Intervenors rely on the same legal theory of general contractor liability under D.C. wage law that has already been resolved by this Court in Plaintiffs' favor. *See Butte Cnty. v. Hogen*, No. 08-519, 2008 WL 2410407, at *2 (D.D.C. June 16, 2008) (granting permissive intervention where the intervenors' claims were "sufficiently related to the main claims in this litigation"). The Driver-Intervenors' claims against Defendant would raise the same factual and legal issues that the Plaintiffs will likely raise in challenging their pay while employed by TSPs that have or do subcontract with MTM, including whether they were paid proper wages. Their claims on whether MTM is liable for any nonpayment of wages and the

damages flowing from that nonpayment also will be more efficiently resolved within the same action, as it will allow this Court—already deeply familiar with the record, the parties, and the structure of MTM's NEMT operations—to supervise the just and efficient resolution of all drivers' claims.

Nor will allowing these interventions cause undue delay or prejudice. Fed. R. Civ. P. 24(b)(3). The remaining questions in this case concern liability and damages for a defined universe of drivers whose wage claims all arise from the same general facts that this Court has reviewed at several junctures during this eight-year-old case. Permitting the Driver-Intervenors to individually intervene to litigate the remainder of their claims does not expand the scope of the litigation or inject new legal theories; it simply identifies additional claimants to whom the Court's existing rulings on MTM's general contractor status and the governing wage statutes will apply. *Hogen*, 2008 WL 2410407, at *3 (finding no prejudice where the intervenors did not add new claims and, therefore, new theories to be explored in discovery). MTM has long been on notice that hundreds of drivers were potentially affected, including from the opt-in process following conditional certification. Indeed, MTM benefited from engaging in discovery of many opt-in plaintiffs, which informed both parties' motions practice. Any incremental discovery or motion practice relating to the Driver-Intervenors will be tightly cabined based on what the parties and the Court have already done.

Under these circumstances, permissive intervention is plainly "in the interest of judicial economy," and the Court should grant it.

C. The Court Should Grant Plaintiffs Leave to Amend the Complaint

Plaintiffs also seek leave to amend the complaint to consolidate all claims for the ease of a single operative pleading. Plaintiffs' amendments to the complaint reflect the current procedural posture of the case. While they do not alter or expand the substance of the alleged claims, they

reflect that the FLSA and D.C.-law wage claims are no longer pursued on a collective or class-wide basis.

Federal Rule of Civil Procedure 15(a)(2) directs that courts "should freely give leave [to amend] when justice so requires." The Supreme Court has long held that leave should be denied only in the presence of "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party, [or] futility of amendment." *Foman v. Davis*, 371 U.S. 178, 182 (1962). The D.C. Circuit has emphasized that this is a liberal standard that strongly favors resolving claims on the merits rather than through technical pleading restrictions. *See, e.g.*, *Harris v. Sec'y, U.S. Dep't of Veterans Affs.*, 126 F.3d 339, 344–45 (D.C. Cir. 1997) (noting that Rule 15(a) "instructs" district courts to use a "generous standard" when "determin[ing] the propriety of amendment" and to "freely give[] leave to amend the pleadings under Rule 15(a) when justice requires.").

None of the factors counseling against amendment is present here. There is no bad faith or dilatory motive: the Driver-Intervenors are proceeding as the Court directed and both parties contemplated, within the deadline the Court set (and later extended) for filing a complaint that contemplates the addition of issue-class members as plaintiffs. See Dkt. Nos. 262, 270. The proposed pleading does not introduce new types of relief or new theories of liability; it asserts the same FLSA and D.C.-law wage-and-hour claims that have been at the heart of this case from the outset, grounded in the same legal theories on which the Court has ruled. Nor does the Complaint-in-Intervention require re-litigating resolved questions. As for the reassertion of the Plaintiffs' FLSA claims, those allegations track the claims previously litigated and resolved on summary judgment and are included to preserve Plaintiffs' rights for purposes of appeal; they do not expand the scope of issues to be tried in this Court.

There is also no "undue prejudice" to MTM. Prejudice in this context means a significant, unfair burden—such as forcing a party to confront entirely new legal theories or factual predicates at a late stage in the case. *Van Hollen v. Fed. Election Comm'n*, 291 F.R.D. 11, 13 (D.D.C. 2013). Here, MTM has been on notice for years that hundreds of NEMT drivers asserted similar wage claims and it has obtained extensive discovery into those claims. Allowing the Driver-Intervenors' Complaint-in-Intervention to be filed simply identifies the individual drivers whose claims will be adjudicated in the anticipated individualized phase. To the extent any additional discovery is needed, it will be limited to driver-specific damages and defenses and will be guided by the existing record rather than starting from scratch.

Accordingly, even if the Court were to construe the Complaint-in-Intervention as an amendment to the pleadings, it should grant leave to file it.

III. CONCLUSION

For the foregoing reasons, the Driver-Intervenors respectfully request that this Court GRANT their motion for leave to intervene into this action, Plaintiffs respectfully request that this Court GRANT their motion for leave to amend the complaint, and direct that the attached Amended Complaint and Complaint-in-Intervention be filed.

Dated: November 21, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that on November 21, 2025, a copy of this filing was served via the Court's CM/ECF filing system to all parties of record.

/s/ Harini Srinivasan
Harini Srinivasan