

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CAMPAIGN LEGAL CENTER,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION,

Defendant,

HERITAGE ACTION FOR AMERICA,

Proposed Intervenor-Defendant.

Case No. 1:21-cv-0406 (TJK)

**EXPEDITED MOTION OF HERITAGE ACTION FOR AMERICA
TO INTERVENE**

Heritage Action for America (“Heritage Action”) respectfully moves to intervene in this case as a matter of right under Federal Rule of Civil Procedure 24(a)(2) for the purpose of seeking reconsideration or appellate review of this Court’s subject matter jurisdiction to issue the order dated May 3, 2022. Dkt. No. 23 (“May 3 Order”). That order granted the motion of Plaintiff Campaign Legal Center (“CLC”) seeking an order declaring that Defendant Federal Election Commission (“FEC”) had failed to comply with this Court’s order dated March 25, 2022, Dkt. No. 16 (“March 25 Order”), and authorizing a direct lawsuit against Heritage Action. PI’s Mot. for Order Declaring Failure to Conform to Default J. (Apr. 26, 2022), Dkt. No. 21. Once the Court issued the May 3 Order, CLC filed a direct lawsuit against Heritage Action in another court in this District. *See* May 3 Order 2 (citing 52 U.S.C. § 30109(a)(8)(C)); Compl., *CLC v. Heritage Action for Am.*, No 22-cv-01248-CJN (D.D.C. May 5, 2022), Dkt. No. 1. Heritage Action alternatively

moves for permissive intervention under Federal Rule of Civil Procedure 24(b)(1)(B).¹ Heritage Action respectfully requests an expedited ruling on this motion because the Court may lose jurisdiction to rule on the motion to intervene when Heritage Action files a notice of appeal. *See Amarin Pharms. Ireland Ltd. v. FDA*, 139 F. Supp. 3d 437, 443 (D.D.C. 2015) (holding that the court lost jurisdiction to decide a motion to intervene once a notice of appeal was filed, but issuing an indicative ruling under Rule 62.1 that the court would grant the motion to intervene if the D.C. Circuit remands for entry of the order).

POSITION OF THE PARTIES

Counsel for Heritage Action sought Plaintiff's consent to this motion, but Plaintiff's counsel stated that Plaintiff opposes this Motion. The FEC has not appeared in this matter and there is no counsel of record to notify. Nonetheless, out of an abundance of caution, counsel for Heritage Action contacted the FEC's Office of General Counsel by email, informing the FEC of Heritage Action's intention to file this motion. Counsel for Heritage Action also asked counsel for the FEC whether the Commission will appeal the Court's May 3 order, but the FEC has not responded to that inquiry.

Respectfully submitted, on May 10, 2022.

/s/ Brett A. Shumate

Brett A. Shumate (D.C. Bar No. 974673)
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Attorneys for Proposed Intervenor-Defendant

¹ Pursuant to Federal Rule of Civil Procedure 24(c) and Local Rule 7(j), a proposed answer to the Complaint is attached to this motion. Also attached is a proposed order granting this Motion. Heritage Action's Corporate Disclosure Statement was filed with its amicus brief at Dkt. No. 17-3, at i.

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and distribution to all registered participants of the CM/ECF System. Attorneys for Plaintiff are registered users of the CM/ECF System of this Court. Defendant was served a paper copy of this filing via regular United States mail at its address:

Federal Election Commission
1050 First Street NE
Washington, DC 20463

/s/ Brett A. Shumate _____

Brett A. Shumate