

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION DISTRICT OF UTAH

2016 FEB 23 5 3:15
BY: _____
DEPUTY CLERK

FEDERAL ELECTION COMMISSION,
Plaintiff,

v.

JEREMY JOHNSON,
Defendant.

ORDER

Case No. 2:15-cv-439DB

Before the Court are Plaintiff, the Federal Election Commission’s (“the FEC”) Motion to Amend and Supplement the Complaint and For Permissive Joinder [Dkt 25] and Interested Third-Party John Swallow’s (“Swallow”) Motion for Leave to (1) Specially Appear and File Opposition to Plaintiff’s Motion to Amend and Supplement Complaint and for Permissive Joinder; or in the Alternative, to (2) File *Amicus Curiae* Brief in Regards to the Same [Dkt 29]. Based on the relevant facts, law, and written arguments, the Court hereby grants the FEC’s motion and denies Swallow’s motion.

The FEC filed the Complaint in this case on June 19, 2015 [Dkt 2]. Defendant, Jeremy Johnson (“Johnson”), filed his Answer on October 19, 2015 [Dkt 17]. The parties have exchanged initial disclosures and filed their Attorney Planning Meeting Report. [Dkt 21]. The

FEC now moves to join Swallow as a defendant under Fed.R.Civ.P. 20(a)(2) and to amend and supplement the Complaint under Rules 15(a)(2) and 15(d). Swallow moves the Court for leave to either specially appear and file a memorandum in opposition to the FEC's motion, or file an *amicus curiae* brief regarding the motion. [Dkt 29]. Johnson has not filed a response to either motion.

Under Rule 20(a)(2), a plaintiff may join a person as a defendant to an action if (A) "any right to relief is asserted against [the defendants] jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences;" and (B) "any question of law or fact common to all defendants will arise in the action." Rule 20(a) should be construed broadly because "joinder of claims, parties, and remedies is strongly encouraged." *United Mine Workers of America v. Gibbs*, 383 U.S. 715, 724 (1966). Under Rule 15(a)(2), a party may amend its pleading with leave of court, which should be freely given when "justice so requires." Fed.R.Civ.P. 15(a)(2).

The FEC claims Swallow and Johnson worked together in the alleged campaign contribution scheme that comprises the claims against them. Both were named in the same administrative complaint which started the FEC's enforcement proceedings in this matter. There will be extensive overlap in the evidence and testimony necessary to prove the allegations against both men.

The Court finds that the allegations against Johnson and Swallow arise out of the same transactions and occurrences and involve common questions of law and fact. It also finds that Swallow will not be unduly prejudiced by joinder in this case. The Court hereby GRANTS the

FEC's Motion to Amend and Supplement the Complaint and For Permissive Joinder. The Court is not persuaded by Swallow's arguments in his motion and his motion is DENIED.

IT IS SO ORDERED.

DATED this 23^d day of February, 2016.

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive style with a long horizontal flourish at the end.

Dee Benson
United States District Judge