

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MARGARET BUNCH, et al.)	
Individually, and as)	
Class Representatives)	
Plaintiffs,)	Case No. 00-0364-CV-W-3
)	
vs.)	
)	
RENT-A-CENTER, INC.,)	
Defendant,)	
)	
vs.)	
)	
CLAUDINE WILFONG, et al.,)	
)	
Intervenors.)	

ORDER GRANTING EEOC'S MOTION TO INTERVENE, GRANTING OBJECTORS'
MOTION TO INTERVENE, DENYING THE WILFONG CLASS REPRESENTATIVES'
MOTION TO INTERVENE, DENYING MOTION TO RECONSIDER AND DENYING
MOTION TO UNSEAL DISCOVERY AND LIFT PROTECTIVE ORDER

Pending are various motions related to the proposed class-action settlement from the Plaintiffs/Class Representatives, the Wilfong Class Representatives, the Equal Employment Opportunity Commission ("EEOC") and a group of objectors to the settlement. The Court rules as follows.

EEOC's Motion to Intervene

The EEOC seeks to intervene in this lawsuit (Doc. # 119). Pursuant to Fed. R. Civ. P. 24(b)(2), "when a party to an action relies on a ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency. . . the officer or agency upon timely application may be permitted to intervene in the action. This lawsuit has been brought under Title VII and the EEOC is the agency

charged to administer this statute. Title VII, 42 U.S.C. § 2000e-5(f)(a) states, “[u]pon timely application, the court may, in its discretion, permit the Commission. . . to intervene in such civil action upon certification that the case is of general public importance.” This case was certified as a case of general importance by the Chairwoman of the EEOC on January 17, 2002. The EEOC’s motion to intervene was filed on January 18, 2002. The Court, concluding that the EEOC’s motion was filed in a timely manner, hereby GRANTS the EEOC’s Motion for Intervention.

Objectors’ Motion to Intervene

Class Members Diane Anderson, Shelly Funston, Denise Hooten, Theresa Kenyon, Amy Synder, Melody Taylor, Jacqueline Turner, Pamela Williams and LaShanda Wright (“the Objectors”) have filed a motion to intervene in the instant matter (Doc. # 125). The Objectors have not opted out, thus they are unnamed members of the class for purposes of this settlement and are entitled to object to the settlement at the upcoming hearing. However, the Objectors, as unnamed class members, must intervene in this lawsuit if they seek to challenge the adequacy of the settlement on appeal. Croyden Assocs. v. Alleco, Inc., 969 F.2d 675, 680 (8th Cir. 1992).

The Objectors seek to intervene pursuant to Fed. R. Civ. P. 24(a) and 24(b). An applicant is entitled to intervene as of right under Rule 24(a) when the following conditions are met: (1) the applicant claims an interest in the property or transaction which is the subject of the action, and (2) the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest. Permissive intervention is permitted under Rule 24(b) when an applicant’s claim or defense and the main action have a question of law or fact in common.

In this case, the Objectors will be permitted to intervene under Fed. R. Civ. P. 24(a). As class members, they clearly have an interest in the settlement of this matter and the result of the settlement could impair their ability to protect that interest. The class members should be allowed to intervene to contest the reasonableness and legality

of the settlement agreement and preserve their right to approve the settlement agreement. Accordingly, the Objectors' Motion to Intervene is GRANTED.

Wilfong Class Representatives' Motion to Intervene

The Wilfong Class Representatives seek to intervene pursuant to Fed. R. Civ. P. 24(a)(2) and 24 (b) (Doc. # 123). The Wilfong Class Representatives have opted out of the proposed settlement in this case. By opting out, the Wilfong Class Representatives have preserved their right to prosecute their claims against Rent-A-Center independently. Therefore, the Wilfong Class Representatives have every legal remedy available to them and can pursue any procedural rights under the Federal Rules of Civil Procedure in their case currently pending in the Southern District of Illinois.

The Wilfong Class Representatives argue that they should be permitted to intervene because the disposition of this matter will impair the rights of the class members in the Wilfong case and they, as the Wilfong class representatives, have an obligation represent the interests of the Wilfong class members. The Court is not persuaded by this argument and notes that the EEOC has been permitted to intervene in this matter. Presumably, the EEOC, who has expertise in evaluating the adequacy of employment discrimination settlements, will not only assist the Court in determining the fairness of the proposed settlement but represent the interests of all of the class members, including the unnamed Wilfong class members.

Because the Wifong Class Representatives have opted out, they have no standing to object to the class settlement and will not be permitted to intervene. The Wilfong Class Representatives' Motion to Intervene is DENIED.

Wilfong Class Representatives' Motions to Unseal Discovery and Produce Documents

Because the Wilfong Class Representatives will not be permitted to intervene or object at the settlement hearing, their pending Motions to Unseal Discovery (Doc. # 124)

and to Produce Documents (Doc. # 126) are DENIED.

Motion to Reconsider Grant of Motion to file Brief of Interests of Amici Curiae

Also pending is the Plaintiffs' Motion to Reconsider the Court's Order Granting Motion to File Brief of Interests of Amici Curiae on behalf of the NOW Foundation and Impact Fund (Doc. # 135). Upon consideration by the Court, Plaintiffs' motion is DENIED.

IT IS SO ORDERED.

DATE: February 28, 2002

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT