

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STARLA ROLLINS, et al.,
Plaintiffs,
v.
DIGNITY HEALTH, et al.,
Defendants.

Case No. 13-cv-01450-JST

**ORDER GRANTING UNOPPOSED
MOTION TO INTERVENE**

Re: ECF No. 294

Before the Court is Proposed Intervenors' unopposed motion to intervene pursuant to Fed. R. Civ. P. 24(b). ECF No. 294. The Court will grant the motion.

The factual and procedural background to this putative class action are well known to both the parties and the Court. In short, Plaintiffs Starla Rollins and Patricia Wilson sued Defendants Dignity Health and Dignity Health Retirement Plans Subcommittee as well as two individual Defendants over the administration of the Dignity Health Pension Plan ("the Plan"). Second Amended Complaint, ECF No. 268 ¶ 3. The crux of the dispute is whether the Plan qualifies for the church plan exemption to the Employee Retirement Income Security Act of 1974 ("ERISA"). *Id.* ¶ 4.

Plaintiffs filed suit in 2013. ECF No. 1. In 2019, after proceedings in the District Court, Ninth Circuit, Supreme Court, and then the District Court again, the parties reached a settlement. ECF No. 278. On June 27, 2019, Plaintiffs filed an unopposed motion for preliminary approval of the settlement agreement and to preliminarily certify the class. ECF No. 284. On October 28, 2019, the Court denied preliminary approval without prejudice and deferred ruling on preliminary class certification. ECF No. 289. On November 25, 2019, Plaintiffs filed a renewed unopposed motion for preliminary approval and class certification. ECF No. 290. On June 12, 2020, the

1 Court “reluctantly” denied the motion without prejudice due to the “fundamental conflict of
2 interest between the vesting subgroup and the rest of the class that must be addressed by subclass
3 certification.” ECF No. 292 at 16. Because Plaintiffs did not include members of the Vesting
4 Subgroup, and so failed to adequately represent the Vesting Subgroup’s interests, the Court could
5 not certify the class, and it could not grant preliminary approval of the Settlement. *Id.*

6 On August 28, 2020, Proposed Intervenor filed the instant motion. ECF No. 294.
7 Proposed Intervenor are members of the Vesting Subgroup. They “terminated their employment
8 with Dignity Health between April 1, 2013 and March 27, 2019, having completed at least three,
9 but less than five, years of vesting service with respect to two different cash balance plans
10 maintained by Dignity Health – the Value Protection Plan and the General Growth Account. If the
11 Plan was not entitled to ‘church plan’ exemption, Proposed Intervenor’s, and the Vesting
12 Subgroup’s, years of service would have been sufficient for them to have vested in their pension
13 benefits pursuant to 203(f)(2) of ERISA, 29 U.S.C. Sec. 1053(f)(2).” *Id.* at 3. Proposed
14 Intervenor move to intervene “for the purposes of ensuring the rights of the Vesting Subgroup are
15 adequately represented in the litigation, and, in particular, are adequately represented in the
16 context of any settlement.” *Id.*

17 Federal Rule of Civil Procedure 24(b)(1)(B) provides for permissive intervention at the
18 court’s discretion where the potential intervenor “has a claim or defense that shares with the main
19 action a common question of law or fact.” Permissive intervention “requires (1) an independent
20 ground for jurisdiction; (2) a timely motion; and (3) a common question of law and fact between
21 the movant’s claim or defense and the main action.” *Freedom from Religion Found., Inc. v.*
22 *Geithner*, 644 F.3d 836, 843 (9th Cir. 2011) (quoting *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966
23 F.2d 470, 473 (9th Cir. 1992)). “Even if an applicant satisfies those threshold requirements,”
24 however, “the district court has discretion to deny permissive intervention.” *Donnelly v.*
25 *Glickman*, 159 F.3d 405, 412 (9th Cir. 1998). “In exercising its discretion, the court must consider
26 whether the intervention will unduly delay or prejudice the adjudication of the original parties’
27 rights.” Fed. R. Civ. P. 24(b)(3). “[T]he court may also consider other factors in the exercise of
28 its discretion, including ‘the nature and extent of the intervenors’ interest’ and ‘whether the

1 intervenors' interests are adequately represented by other parties.'" *Perry v. Proposition 8 Off.*
 2 *Proponents*, 587 F.3d 947, 955 (9th Cir. 2009) (quoting *Spangler v. Pasadena City Bd. of Educ.*,
 3 552 F.2d 1326, 1329 (9th Cir. 1977)).

4 In evaluating motions to intervene, "courts are guided primarily by practical and equitable
 5 considerations, and the requirements for intervention are broadly interpreted in favor of
 6 intervention." *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004). "Courts are
 7 to take all well-pleaded, nonconclusory allegations in the motion to intervene, the proposed
 8 complaint or answer in intervention, and declarations supporting the motion as true absent sham,
 9 frivolity or other objections." *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 820 (9th
 10 Cir. 2001).

11 The Court finds that the requirements of Rule 24(b) are satisfied. First, Proposed
 12 Intervenor is not required to show an independent basis for jurisdiction because they assert no
 13 new claims. *Freedom from Religion Found., Inc.*, 644 F.3d at 844. Second, the motion is timely.
 14 Although this action has been pending for several years, the Court only recently raised with the
 15 parties the potential need for separate representation of the Vesting Subgroup. *See* ECF No. 292.
 16 The instant motion was filed only a few weeks after the Court issued its order. *See e.g., Kamakahi*
 17 *v. American Society for Reproductive Medicine*, No. 11-cv-01781-JCS, 2015 WL 1926312 at *4-
 18 6 (N.D. Cal. Apr. 27, 2015) (holding intervenors' motion, submitted four years after the case was
 19 originally filed, but only weeks after the Court denied class certification, was timely). Third,
 20 Proposed Intervenor's claims share common questions of law and fact with the main action. As
 21 members of the Vesting Subgroup, and like the rest of the Class, Proposed Intervenor's claim of
 22 injury stems from Defendants' treatment of the Plan as qualifying for ERISA's church plan
 23 exemption. ECF No. 294 at 8. Proposed Intervenor explains that the only additional evidence
 24 they "would need to support their claim would be the calculation of the benefits to which they
 25 would be entitled if the Plan followed ERISA's vesting rules." *Id.* at 9. Proposed Intervenor
 26 would otherwise rely on the same legal theories and evidence as Plaintiffs. Finally, no party has
 27 opposed Proposed Intervenor's motion, *id.*, and the Court finds the intervention will not cause any
 28 delay or prejudice to the parties. As the Court indicated in its previous order, the Vesting

Subgroup's interests must be adequately represented in any proposed settlement. ECF No. 292 at 16. The intervention of Proposed Intervenors is therefore likely to benefit all parties.

For the foregoing reasons, the Court GRANTS the motion to intervene.

IT IS SO ORDERED.

Dated: November 2, 2020



JON S. TIGAR
United States District Judge

United States District Court
Northern District of California