

power of an equity receiver under common law as well as such powers as are enumerated herein.” Am. Order Appointing Receiver [157] at 2.

Susan Stanford is Defendant Stanford’s wife. She has filed for divorced from her husband, but the divorce is not finalized. She seeks to intervene in this action to protect her community property interest in assets and property that Defendant Stanford acquired during their marriage. The Receiver opposes her motion.

II. THE COURT GRANTS SUSAN STANFORD’S MOTION TO INTERVENE

Susan Stanford argues that she has a right to intervene under Federal Rule of Civil Procedure 24(a). The Court need not address this argument because, regardless of whether she has a right to intervene under Rule 24(a), it would exercise its discretion to allow intervention under Rule 24(b).

Under Rule 24(b), a court may allow a party to intervene if it meets three requirements. (1) The movant must timely apply to intervene. (2) The movant must bring a claim or defense that shares a common question of law or fact with the main action. (3) “In exercising its discretion [under Rule 24(b),] the court must consider whether intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” FED. R. CIV. P. 24(b)(1), (3). The Receiver does not argue that Stanford’s motion is untimely. Accordingly, the Court considers the second two requirements for permissive intervention.

A. Common Questions of Law or Fact

Susan Stanford's claims share common questions of law and fact with the S.E.C. proceeding. Here, the Court froze Defendant Stanford's personal assets and placed them in receivership. Am. Order Appointing Receiver [157] at 1 ("The Court assumes exclusive jurisdiction and takes possession of the assets, monies, securities, propertiers, real and personal, tangible and intangible . . . of the Defendants and all entities they own or control.") Susan Stanford claims a community property interest in Defendant Stanford's personal assets. Under Texas law, "property possessed by either spouse during or on dissolution of marriage is presumed to be community property." TEX. FAM. CODE ANN. § 3.003 (Vernon 2006). Thus, Susan Stanford's claims to various property now held in receivership clearly share common questions with the receivership proceeding.

B. Potential Prejudice to Other Parties

The Court finds that allowing Susan Stanford's intervention will not prejudice other parties. "Rule 24(b) necessarily vests broad discretion in the district court to determine the fairest and most efficient method of handling a case with multiple parties and claims." *S.E.C. v. Everest Mgmt. Co.*, 475 F.2d 1236, 1240 (2d Cir. 1972). Factors a district court may consider in exercising its discretion include "whether the intervenors' interests are adequately represented by other parties and whether intervention will unduly delay the proceedings or prejudice existing parties." *Kneeland v. NCAA*, 806 F.2d 1285, 1289 (5th Cir. 1987).

The Court finds that Susan Stanford's interests are not adequately represented by other parties to this case. The parties briefed the issue of adequate representation with regard to Susan Stanford's claim for intervention of right, but it is relevant to the Court's determination of permissive intervention as well. *Id.* The Receiver argues that Defendant Stanford represents his wife's interests in community property because both share the same ultimate objective of preserving marital property. When faced with a similar fact situation, the Eighth Circuit disagreed.² *See S.E.C. v. Flight Transp. Corp.*, 699 F.2d 943, 949 (8th Cir. 1983). There, a wife sought to intervene in an S.E.C. enforcement action against her husband, from whom she had filed for divorce. *Id.* at 946-47. The Eight Circuit held that "[b]itter feelings" arising from the divorce warranted the wife's intervention. *Id.* at 949. The court reasoned that "she should not have to depend on representation by a person with whom her personal relationship has apparently been irretrievably broken." *Id.* The same reasoning applies here: Susan Stanford strongly believes her interests are not represented by her estranged husband.

The Court further finds that there will be no prejudice to existing parties in allowing Susan Stanford to intervene. Courts have found a lack of prejudice when the intervenor brings claims that are limited and narrow in scope. *Compare, e.g., S.E.C. v. Kings Real Estate Inv. Trust*, 222 F.R.D. 660, 671-72 (D. Kan. 2004) (allowing a single investor to intervene in an enforcement action solely to argue that his investment was not part of the

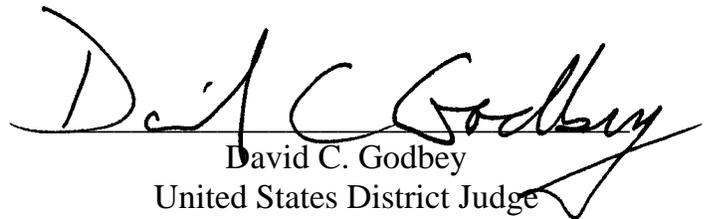
²Neither party was able to locate authority from the Fifth Circuit addressing this precise issue.

alleged Ponzi scheme and should not be part of the receivership estate), *with S.E.C. v. TLC Invs. & Trade Co.*, 147 F. Supp. 2d 1031, 1043 (C.D. Cal. 2001) (denying motion to intervene because intervenors' claims only partially overlapped with the main action and would unduly burden the main case). Here, Susan Stanford seeks to be heard before the Receiver disposes of community assets. As she acknowledges, "her community property interest may prove to have been obtained by fraud," but she seeks the opportunity to be heard on that issue. *See* Mot. to Intervene [409] at 9. Given the limited scope of Susan Stanford's claims, the Court does not find that allowing her to intervene would delay this proceeding significantly, if at all.

CONCLUSION

For reasons stated above, the Court grants Susan Stanford's motion to intervene and denies as moot her request for a hearing on the matter.

Signed January 6, 2010.


David C. Godbey
United States District Judge