

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

HOUSING MANAGEMENT SERVICES,
INC., HOUSING MANAGEMENT
SERVICES, a WISCONSIN LIMITED
PARTNERSHIP, and RICHARD SIMMA,

Defendants.

ORDER

07-cv-544-bbc

In this civil case for monetary and injunctive relief brought under the Fair Housing Act, 42 U.S.C. §§ 3601–3619, plaintiff United States of America contends that defendants Housing Management Services, Inc., Housing Management Services, a Wisconsin Limited Partnership and Richard Simma violated the Act when they terminated a lease for a townhouse rented by Coren Briggs in Hudson, Wisconsin. Briggs received rental assistance through the United States Department Housing and Urban Development’s Section 8 Project-Based Assistance Program. Briggs has attention deficit disorder and major depression; plaintiff contends that she is disabled and that defendants failed to provide

reasonable accommodations to allow her continue living in her rental unit.

Now before the court are the unopposed motions of Briggs and State Farm Fire & Casualty Company, defendants' insurer, to intervene in the lawsuit. In addition, State Farm asks that the case be stayed and proceedings bifurcated in order for the court to determine its "coverage obligations" to defendants before questions of liability are determined. This request is also unopposed. Both Briggs and State Farm will be permitted to intervene in this case. However, State Farm's request for a stay and bifurcation will be denied.

A. Coren Briggs's Motion

As noted above, this case concerns defendants' termination of Briggs's lease for a townhome. An "aggrieved person" may intervene as of right in a civil action brought on her behalf by the United States under the Fair Housing Act. 42 U.S.C. § 3612(o). Section 3602(o) of the Act defines an "aggrieved person" to include "any person who claims to have been injured by a discriminatory housing practice," a category that includes Briggs in this case. Therefore, she will be permitted to intervene under Fed. R. Civ. P. 24(a) ("Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene . . ."). (None of the parties argue that Briggs's motion is untimely.)

B. State Farm's Motion

_____ State Farm issued liability insurance policies to defendant Housing Management Services c/o Richard Simma. State Farm asserts that these policies were issued in Wisconsin and are governed by Wisconsin law. It seeks to intervene as of right under Fed. R. Civ. P. 24(a)(2) in order to obtain a declaration that these policies include no coverage obligations that would require it to defend or indemnify defendants in this case. Fed. R. Civ. P. 24(a)(2) provides that

On timely motion, the court must permit anyone to intervene who: . . . claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

If defendants are found liable for money damages in this case, and State Farm's policies are found to cover these liabilities, it may be called upon pay these damages. State Farm contends that its interests in the case are not adequately represented by any of the existing parties to the litigation, and none of the parties disagrees. Therefore, I am persuaded that it has a right to intervene. Hagen v. Van's Lumber & Custom Builders Inc., No. 06-C-122, 2006 WL 3404772 (E.D. Wis. 2006) (granting motion of insurance company to intervene under Rule 24(a) in order to obtain declaration on duty to defend party); International Paper Co. v. City of Tomah, No. 00-C-539-C, 2000 WL 34230089, *3 (W.D. Wis. 2000) (same). However, I am not persuaded that it should be permitted to

put the brakes on the rest of the case while the court sorts out its coverage obligations.

As a rule, this court does not bifurcate coverage questions or stay other discovery while such motions are pending. When briefing its motion for declaratory relief, State Farm may attempt to show good cause to except this case from the court's default position, but nothing in its initial submissions convinces me that it is more just, speedy and inexpensive to put this entire case on hold while briefing and deciding the coverage issue.

ORDER

IT IS ORDERED that

1. The motion of Coren Briggs to intervene in this case, dkt. # 14, is GRANTED.
2. The motion of State Farm Fire & Casualty Company to intervene, bifurcate and stay, dkt. # 6, is GRANTED IN PART and DENIED IN PART. State Farm's request to intervene is GRANTED. However, its request to bifurcate and stay the case is DENIED without prejudice.

Entered this 7th day of April, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge