

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Donald Meeks,	:	
Plaintiff-Appellee,	:	
v.	:	No. 12AP-436
Tiana T. Williams et al.,	:	(C.P.C. No. 11CV-4057)
Defendants-Appellees,	:	(ACCELERATED CALENDAR)
(TPI Asset Management, LLC,	:	
Defendant-Appellant).	:	

D E C I S I O N

Rendered on November 29, 2012

Ross & Midian, LLC, Brian W. Ross and W. Martin Midian,
for appellee Donald Meeks.

Kevin J. Zimmerman, for appellees Tiana T. Williams and
Grange Insurance Company.

Brian B. Johnson, for appellant.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} TPI Asset Management, LLC ("TPI") is appealing from the decision of the Franklin County Court of Common Pleas regarding whether to allow it to intervene in a personal injury case filed by Donald Meeks against Tiana T. Williams and her insurer.

{¶ 2} TPI assigns a single error:

I. FIRST ASSIGNMENT OF ERROR- THE TRIAL COURT
ERRED AS A MATTER OF LAW BY DENYING
APPELLANT'S MOTION TO INTERVENE.

{¶ 3} TPI apparently has a judgment in Union County against Meeks but has had little success in collecting it. Upon learning of the lawsuit Meeks had filed in Franklin County, TPI attempted to intervene as of right pursuant to Civ.R. 24(A). The common pleas court refused to allow the intervention, finding that the motion to intervene was not timely. The lawsuit had been settled and the only action left was for an insurance company to pay the agreed-upon sums.

{¶ 4} Civ.R. 24(A) initially requires that "[u]pon timely application anyone shall be permitted to intervene in an action." A trial court's decision on the timeliness of a motion to intervene will not be reversed absent an abuse of discretion. *State ex rel. First New Shiloh Baptist Church v. Meagher*, 82 Ohio St.3d 501 (1998). An abuse of discretion connotes more than an error of judgment; it implies a decision that is arbitrary or capricious, one that is without a reasonable basis or clearly wrong. *Pembaur v. Leis*, 1 Ohio St.3d 89 (1982); *In re Ghali*, 83 Ohio App.3d 460 (10th Dist.1992).

{¶ 5} Whether a Civ.R. 24 motion to intervene is timely depends on the facts and circumstances of the case. *First New Shiloh Baptist Church* at 503. The Supreme Court of Ohio laid out the following factors considered in determining timeliness:

(1) the point to which the suit had progressed; (2) the purpose for which intervention is sought; (3) the length of time preceding the application during which the proposed intervenor knew or reasonably should have known of his interest in the case; (4) the prejudice to the original parties due to the proposed intervenor's failure after he knew or reasonably should have known of his interest in the case to apply promptly for intervention; and (5) the existence of unusual circumstances militating against or in favor of intervention.

Id.

{¶ 6} In the case at bar, the lawsuit had already progressed to the point of being settled when TPI wished to intervene. Also, we look at the purpose for which TPI sought

intervention. Obviously, TPI has no involvement in the merits of the personal injury suit, but only wishes to be paid from the proceeds of the settlement. A decision to attach the proceeds of a lawsuit does not give an entity standing to become a party to the underlying lawsuit. Lastly, there are no unusual circumstances in favor of intervention in this case.

{¶ 7} The trial court was within its discretion in refusing to allow TPI to intervene.

{¶ 8} The sole assignment of error is overruled. The ruling of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

SADLER and FRENCH, JJ., concur.
