

STATE OF MISSOURI )  
 ) SS  
CITY OF ST. LOUIS )

**MISSOURI CIRCUIT COURT  
TWENTY-SECOND JUDICIAL CIRCUIT  
(City of St. Louis)**

IRRESISTIBLE COMMUNITY )  
BUILDERS, L.L.C., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
 )  
 )  
Defendants. )

Cause No. [REDACTED]

Division No. 27

**ORDER**

This matter comes before the Court on Scott [REDACTED] Motion to Intervene. The Court now rules as follows.

Plaintiff filed this action for unlawful detainer on February 11, 2016, seeking a judgment against Defendants for restitution of premises situated in the City of St. Louis and for damages sustained.

Scott [REDACTED] seeks to intervene in this cause pursuant to Rule 52.12(a) and 52.12(b) stating that he represents public interests in preserving the subject property, that he has personal knowledge related to this case, that he is an expert witness, and that he is "materially impeded in endeavors supporting Defendants and higher interests in common."

"In the absence of a statute conferring an unconditional right of intervention, an applicant seeking intervention [under Rule 52.12(a)] must file a timely motion and show three elements: (1) an interest relating to the property or transaction which is the subject of the action; (2) that the applicant's ability to protect the interest is impaired or impeded; and (3) that the existing parties are inadequately representing the applicant's interest." In re Prof'l Med. Ins. Co., 92 S.W.3d 775, 778 (Mo. banc 2003); See also Flippin v. Coleman Trucking, Inc., 18 S.W.3d 17, 20 (Mo. App. E.D. 2000); Borgard v. Integrated Natl. Life Ins. Co., 954 S.W.2d 532, 535 (Mo. App. E.D. 1997). A court must deny the motion to intervene "if any one of these requirements is not met." Flippin, 18 S.W.3d at 20. "The proposed intervenor carries the burden of establishing the presence of all three elements required for intervention as a matter of right." In re Prof'l Med. Ins. Co., 92 S.W.3d at 778. "[P]ermissive intervention may be permitted when the intervenor has an economic interest in the outcome of the suit." Johnson v. State, 366 S.W.3d 11, 21 (Mo. banc 2012).

"The type of interest required to intervene as of right in an action must be a direct and immediate claim to, and having its origin in, the demand made or proceeds sought or prayed by one of the parties to the original action." Augspurger v. MFA Oil Co., 940 S.W.2d 934, 937 (Mo. App. W.D. 1997). "It must be

such an immediate and direct claim upon the very subject matter of the action that the would-be intervenor will either gain or lose by the direct operation of the judgment that may be rendered therein." Id.

"[In] Missouri, an action for unlawful detainer is a limited statutory action where the sole issue to be decided is the immediate right of possession to a parcel of real property." United States Bank, NA v. Watson, 388 S.W.3d 233, 234-235 (Mo. App. E.D. 2012). "The unlawful detainer statute is an exclusive and special code to which the ordinary rules and proceeding of other civil actions do not apply." Central Bank of Kan. City v. Mika, 36 S.W.3d 772, 774 (Mo. App. W.D. 2001). Counterclaims are prohibited and "[i]ssues relating to title or matters of equity, such as mistake, estoppel and waiver cannot be interposed as a defense." Id.

In this case, Scott [REDACTED] has not met his burden of showing that he should be permitted to intervene in this action as of right under Rule 52.12(a). In addition, [REDACTED] has not persuaded that Court that it should exercise its discretion to allow him to intervene permissively under Rule 52.12(b).

THEREFORE, it is Ordered that Scott's [REDACTED] Motion to Intervene is hereby DENIED.

SO ORDERED:

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Judge Paula P. Bryant

Dated: \_\_\_\_\_, 2016