

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division**

**DISTRICT OF COLUMBIA,
DEPARTMENT OF INSURANCE,
SECURITIES AND BANKING,**

Petitioner,

v.

D.C. CHARTERED HEALTH PLAN, INC.,

Respondent.

Case No. 2012 CA 008227 2

Judge Bartnoff

ORDER DENYING MOTION TO INTERVENE

D.C. Healthcare Systems Inc. (“DCHSI”) has filed a motion to intervene in this action. DCHSI is the sole shareholder of respondent D.C. Chartered Health Plan Inc. (“Chartered”). The plaintiff opposes the motion.

In 2013, the Honorable Melvin Wright approved a settlement of certain claims between the District of Columbia and Chartered. DCHSI did not seek to intervene at that time, but Judge Wright did permit DCHSI to participate in this case in order to present its objections to the settlement. DCHSI’s position was considered and rejected on the merits by Judge Wright. DCHSI then filed an appeal of Judge Wright’s order, but it dismissed the appeal on the eve of oral argument. There currently is pending litigation between DCHSI and Chartered both in this Court (before the Honorable Michael L. Rankin) and in the United States District Court for the District of Columbia.

Rule 24(a) of the Superior Court Rules of Civil Procedure states in relevant part:

Upon timely application anyone shall be permitted to intervene in an action . . . when the applicant claims an interest relating to the . . . transaction which is the subject of the action and the applicant is so situated that the disposition of the action may . . . impede

the applicant's ability to protect that interest unless the applicant's interest is adequately represented by existing parties.

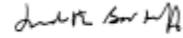
The Court held a hearing in this case on December 15, 2016, at which all parties were present, as well as counsel for DCHSI. The Court heard from all parties at that time with regard to the proposed intervention. For reasons stated by the Court on the record at the hearing, the Court concludes that the proposed intervention is not timely. In addition, it appears that the claims that DCHSI is seeking to assert either already were litigated before Judge Wright in 2013 and/ or are the subject of the other litigation currently pending between DCHSI and Chartered. Further, to the extent that DCHSI now is claiming that it should be permitted to intervene in this case because the rehabilitation has taken too long, the rehabilitation cannot be concluded until the Rehabilitator/ Chartered's claims against DCHSI are resolved. Progress in resolving the pending litigation brought by the Rehabilitator against DCHSI has been delayed substantially by DCHSI, including, in particular, by Mr. Thompson's failure to appear at his deposition over a year ago. DCHSI cannot claim that it is entitled to intervene in this case because of the time it has taken for the rehabilitation process to be concluded, when it is DCHSI that appears to bear primary responsibility for any delays.¹

The Court also finds no basis for DCHSI now to claim that its interests are not adequately represented by existing parties. To the contrary, DCHSI initially consented to the rehabilitation, in accordance with D.C.. Official Code § 31-1312. DCHSI was permitted to be heard in this case in the context of a settlement between the Rehabilitator and the District with regard to some of Chartered's claimed assets and liabilities, and if any similar issues arise in the future, DCHSI again can seek to present its position to this Court.

¹ As noted above, DCHSI also now has filed suit against the Rehabilitator, which further could delay conclusion of the rehabilitation process.

Based on the foregoing and the entire record, and for the reasons stated by the Court at the hearing on December 15, 2016, and as explained further herein, it therefore is by the Court this 19th day of December 2016

ORDERED that the motion to intervene be and it hereby is **DENIED**.



Judge Judith Bartnoff
Signed in Chambers

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