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SC SUPREME COURT
The Supreme Court of South Carolina
Office of Bar Admissions

PATRICIA A. HOWARD
CLERK OF COURT

KATHLEEN "TINA" BRYANT
MANAGER, OFFICE OF BAR
ADMISSIONS

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COLUMBIA, SOUTH CAROLINA 29211
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December 13, 2024

The Honorable Patricia A. Howard
Clerk of Court, Supreme Court of South Carolina
1231 Gervais Street
Columbia, S.C. 29201

RE: Yamilette Albertson, et al. v. Ellen Weaver

Case No.: 2024-02062

Dear Ms. Howard:

I certify that the Office of Bar Admissions has received a verified application requesting Michael Bindas be admitted *pro hac vice* in the above matter. The \$250 filing fee for the applicant has been paid.

Sincerely,

M.J. Thames
Bar Admissions Coordinator

cc: Michael Bindas
Matthew P. Cavedon

5. List all courts before which Applicant has been admitted to practice law, including United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and state courts or the District of Columbia.

Court:	Date Admitted:
See attached list.	

Is Applicant presently a member in good standing of the bars of those courts listed above? List any court named in the preceding paragraph that applicant is no longer admitted to practice before.

Yes

6. Is Applicant presently subject to any suspension or disbarment proceedings, or has Applicant been formally notified of any complaints pending before a disciplinary agency? If yes, give particulars, e.g., jurisdiction, court date.

No

7. Has Applicant had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked? If yes give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation.

Yes. On July 25, 2024, in the Circuit Court of Pulaski County, Arkansas, Sixteenth Division, Case No. 60CV-24-4630, the Hon. Morgan E. Welch denied Applicant's motion for *pro hac vice* admission as moot. The order is attached.

8. Has Applicant had any certificate or privilege to appear and practice before any court or administrative body suspended or revoked? If yes, give particulars, e.g., date, court, administrative body, date of suspension and reinstatement.

No

9. Please be aware that local counsel must be Rule 403 certified. Local counsel of record associated with Applicant in this case is Matthew P. Cavedon of the Amagi Law, LLC law firm, which has offices at:

336 Georgia Avenue, Suite 106 #217
 Street Address
North Augusta Aiken South Carolina 29841
 City County State Zip Code
(706) 309-2859 matt@amagi.info
 Primary Telephone Cell Phone Fax Number Email Address

Attachment to Verified Application for Admission *Pro Hac Vice* of Michael E. Bindas

Seeking to Appear in the Supreme Court of South Carolina
Pursuant to SCACR Rule 404

5. List all courts before which Applicant has been admitted to practice law, including United States District Courts; United States Circuit Courts of Appeals; the Supreme court of the United States; and state courts or the District of Columbia.

Court	Date Admitted
US Supreme Court	12/5/2011
US Court of Appeals, 1st Circuit	5/19/2023
US Court of Appeals, 4th Circuit	6/21/2013
US Court of Appeals, 8th Circuit	4/26/2010
US Court of Appeals, 9th Circuit	3/18/2003
US Court of Appeals, 10 th Circuit	06/06/2016
U.S. District Court Eastern District of Washington	02/04/2004
U.S. District Court Western District of Washington	02/04/2004
U.S. District Court District of Colorado	03/16/2016
Washington State Supreme Court	11/19/2001

#105505

South Carolina Bar Number
(You must provide Bar Number)

10. Has Applicant previously filed an application to appear *pro hac vice* in South Carolina cases? If yes, give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted.

Yes.
In the Supreme Court of South Carolina; Eidson, et al. v. South Carolina Department of Education, et al.; Case No. 2023-001673; Amicus brief filed in Support of Respondents; Opinion dated 09/11/2024; Local Counsel: Matthew Cavedon; *Pro Hac Vice* application submitted and granted 02/2024.

11. Does Applicant agree to comply with the applicable statutes, laws and rules of the State of South Carolina and familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct? Does Applicant consent to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

Yes

12. Applicant respectfully requests to be admitted to practice in the above-named tribunal for this case only.

DATED this 3RD day of DECEMBER, 2024



APPLICANT

VERIFICATION

STATE OF Washington)

COUNTY OF King)

I, Michael Bindas, do hereby swear or affirm under penalty of perjury that I am the applicant in the above-styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true. I understand that I am under a continuing duty to promptly update the information provided in the application until the tribunal has ruled on the motion for admission pro hac vice. Further, if the motion is granted, I understand that I am under a continuing duty to promptly update the information provided in the application as long as I continue to appear pro hac vice in the action or proceeding. Any updated information shall be provided to both the tribunal that granted the motion and to the tribunal in which the action or proceeding may then be pending.

[Signature]

APPLICANT/AFFIANT

Subscribed and sworn to before me this 3rd day of December, 20 24

[Signature: Hilary Loya]
(Notary Signature)



Notary Public for the State of Washington
My Commission Expires: Nov. 12, 2025

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

DATED this 4th day of December, 20 24

[Signature: Matthew J. Canedon]
LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this

4th day of December, 20 24

[Signature: Matthew J. Canedon]

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN THE MATTER OF THE ADMISSION)	BAR NO. 31590
)	
OF)	CERTIFICATE
)	
MICHAEL E. BINDAS)	OF
)	
TO PRACTICE IN THE COURTS OF THIS STATE)	GOOD STANDING
)	

I, Sarah R. Pendleton, Acting Clerk of the Supreme Court of the State of Washington, hereby certify

MICHAEL E. BINDAS

was regularly admitted to practice as an Attorney and Counselor at Law in the Supreme Court and all the Courts of the State of Washington on November 19, 2001, and is now and has continuously since that date been an attorney in good standing, and has a current status of active.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court on the 30th day of October, 2024.

A handwritten signature in black ink, appearing to read "Sarah R. Pendleton".

Sarah R. Pendleton
Acting Supreme Court Clerk
Washington State Supreme Court

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTEENTH DIVISION

GWEN FAULKENBERRY, et al

PLAINTIFFS

v.

CASE NO. 60CV-24-4630

ARKANSAS DEPARTMENT OF EDUCATION, et al

DEFENDANTS

**ORDER DENYING MOTION TO INTERVENE
AND DENYING PROHAC APPLICATIONS AS MOOT**

COMES NOW for consideration the Petitioners', Erika Lara, Katie Parrish, and Nikita Glendenning ("Petitioners"), Motion to Intervene ("Motion"). For the reasons explained below, the Court hereby DENIES the Motion.

1. The Court finds the Petitioners are not entitled to intervene as of right.

Arkansas Rule of Civil Procedure 24(a)(2) states:

Upon timely application anyone shall be permitted to intervene in an action... when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

- a. Petitioners' Motion is timely under *UHS of Ark., Inc. v. City of Sherwood*, 296 Ark. 97, 104, 752 S.W.2d 36, 39.
- b. This Court finds that the Petitioner's lack the "direct, substantial and legally protectable interest" required to intervene as of right. *Cherokee Nation Businesses, LLC, v. Gulfside Casino Partnership*, 2021 Ark. 17. See also: *U.S. v. Union Elec. Co.*, 64 F. 3d 1152 (8th Cir. 1995).

The Petitioners claim to have a direct, substantial, and legally protectable interest in the Voucher Program because they have children who participate in the program, or they might have children who participate in the program at a future date. In making this argument Petitioners rely on the holdings in *Bayer Cropscience, LP v. Hooks*, 2022 Ark. 29, 638 S.W.3d 274, *Certain Underwriters at Lloyd's London v. Bass*, 2015 Ark. 178, 461 S.W. 3d, 326, and *Nat'l Parks Conservation Ass'n v. EPA*, 759 F.3d 969,975 (8th Cir. 2014). However, these cases are distinguishable from the case at hand.

In each of the cases raised, the intervenors had either a direct economic interest, or uniquely proprietary interests in the outcome of the case. Such interests are missing here. Although the parents would like to receive vouchers to make private school tuition more affordable, and to educate their children in the best possible schools, this is a generalized interest that is insufficient to justify intervention, and is a non-specific desire, arguably attributable to every parent with children in public or private schools.

Every parent wants the best education for their child. but this is not enough to merit the right to intervene. As explained in *Texas v. United States*, 805 F.3d 653, 660 (5th Cir. 2015):

“...[A]n intervenor fails to show a sufficient interest when he seeks to intervene solely for ideological, economic, or precedential reasons; that would-be intervenor merely prefers one outcome to the other. For example, in *NOPSI*, a private utility company filed suit against a seller of natural gas in a contractual dispute concerning fuel prices. 732 F.2d at 454–55. Officials from the city of New Orleans attempted to intervene on the ground that the electricity rates paid by the city would increase if the fuel-pricing dispute was decided against the utility company. *Id.* at 460–61. Sitting *en banc*, we held that the officials' generalized, “purely economic interest” was insufficient to justify intervention. *Id.* at 466. “After all, every electricity consumer ... and every person who does business with any electricity consumer yearns for lower electric rates.”

[805 F. 3d @ pp. 657-58]

c. The Court finds that the disposition of this action does not pose a threat to Petitioners' ability to protect any interest they might have in the matter.

In addition to claiming an interest in continued state funding of private and homeschool for their children, which has been addressed, Petitioners claim that they have an interest in the Voucher Program because they have an interest in directing the upbringing of their children. According to Petitioners this includes deciding where their children go to school. They rely on *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925), in making this argument.

Contrary to the law at issue in *Pierce*, determining whether the Voucher Program is unconstitutional does not threaten the availability of private schools or homeschools as an option for parents to choose to educate their children. Parents will still have the ability to send their children to a private school or to homeschool them if they so choose. As such, the disposition of this action does not threaten parents' interest in "directing the upbringing and education of their children" and the Petitioners do not meet the fourth requirement of Rule 24(a)(2).

d. The court finds that any interest the Petitioners may have in the voucher program is adequately represented by an existing party.

An interest of a litigant is adequately represented when it is identical to, or not significantly different from, that of the proposed intervenor. *Cherokee Nation Business, LLC v. Gulfside Casino Partnership*, 2021 Ark. 17, 9, 614 S.W.3d 811, 817.

The Court finds that, if Petitioners have an interest in the public funding of private education for their children, this interest is not significantly different from the interest of the State of Arkansas as defended by the Attorney General. The State of Arkansas has a declared interest in upholding the legislatively created voucher funding mechanism for its program that allows parents to receive money to partially fund private education for their children. Therefore, both the Petitioners and the State of Arkansas have a similar interest in the availability of the funding.

Moreover, if these parents may intervene as a matter of right, the same privilege would have to be extended to every parent of a school age-child in Arkansas that currently has a child attending school using a voucher or that may someday have a child attending school using a voucher. This would amount to tens of thousands of Arkansas citizens having the right to intervene in the case. Litigation of such a public matter is the responsibility of the Attorney General, who is elected to represent not only the State of Arkansas but the interests of the citizens of Arkansas as well. See *Pulaski County Bd. Of Equalization v. American Republic Life Ins. Co.* 233 Ark. 124, 233 Ark. 124 (1961).

2. The Court DENIES Petitioner's request for permissive intervention.

Permissive intervention may be granted in an action when (1) a statute of this state confers a conditional right to intervene; or (2) an applicant's claim or defense and the main action have a question of law or fact in common. Ark. Rules of Civil Procedure, Rule 24(b). The issue in this case is whether the funding mechanism of the Voucher Program of the LEARNS Act violates Article 14 §§1-3, and Article 16 §11 of the Constitution of the State of Arkansas. Petitioners claim that their defenses share a question of law or fact in common with the main action because they cannot receive funding for private or homeschooling if the Voucher Program is unconstitutional. Petitioners' issues diverge from the State of Arkansas' defenses.

The Petitioners claim they "can provide insights into the issues that the current parties lack." This insight is purported to be "how the [Voucher] Program will help [Petitioners] meet the unique educational needs of their children and of the injury their families will suffer if the Program is enjoined." Motion at 18. However, the Voucher Program's funding is not dependent upon information regarding the Petitioners' children or their experiences with various types of schools, or their educational needs. The information, though important to discussions regarding

Arkansas' schools as a whole or the Voucher Program's efficacy, is not pertinent to the issue in this case. Petitioners' indicate their defense of the program is based on these insights, but this Court cannot find that the defenses are the same as the State of Arkansas' defenses of the sources of the revenue for the Voucher Program.

Further, unnecessary information can slow the progress of the litigation and prevent a prompt resolution. Given that Petitioners can only provide irrelevant information, they are obviously not a necessary party in an action to determine the constitutionality of the Voucher Program's funding. See *Pulaski County Bd. Of Equalization*, 342 S.W. 2d at 662. For these reasons, the Court DENIES Petitioners' request for permissive intervention.

The Petitioners' Motion to Intervene is hereby DENIED. Accordingly, Petitioners' related Petitions to admit additional counsel *pro hac vice* are also DENIED as Moot.

IT IS SO ORDERED

Hon. Morgan E. Welch
Circuit Court Judge

7/25/24

Date