

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres, on
behalf of himself and all others similarly
situated; et al.

Plaintiffs,

v.

Joseph M. Arpaio, in his official capacity as
Sheriff of Maricopa County, Arizona; et al.

Defendants.

No. CV-07-2513-PHX-GMS

ORDER

Pending before the Court is the United States Department of Justice, Civil Rights Division's Motion to Intervene. (Doc. 1177.) The United States has moved to intervene under Federal Rule of Civil Procedure 24(a)(1) and under the specific authority of § 902 of Title IX of the Civil Rights Act of 1964, which provides:

Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution on account of race, color, religion, sex or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance.

42 U.S.C. § 2000h-2. Upon the filing of a timely motion, the United States' right to intervene pursuant to Rule 24(a)(1) and § 902 "is an absolute and not a permissive one." *Spangler v. United States*, 415 F.2d 1242, 1244 (9th Cir. 1969); accord *Carter v. Sch. Bd. of W. Feliciana Parish*, 569 F. Supp. 568, 571 (M.D. La. 1983) (recognizing that § 902

1 grants the U.S. Attorney General “an unconditional right to intervene in those cases
2 which he certifies are of general public importance”); Wright & Miller, 7C Fed. Prac. &
3 Proc. Civ. § 1906 (3d ed.) (“The United States also has an unconditional statutory right to
4 intervene in actions seeking relief from the denial of equal protection of the laws under
5 the Fourteenth Amendment to the Constitution on account of race, color, religion, or
6 national origin.”).

7 This case involves, in part, Defendants’ denial of equal protection of the laws
8 under the Fourteenth Amendment to the U.S. Constitution on account of individuals’ race
9 or national origin, and providing relief therefrom. The Attorney General has also certified
10 that this case is one of general public importance. (Doc. 1177, Ex. 3.) Thus, the Court
11 must permit intervention under the Civil Rights Act of 1964 so long as the United States’
12 application was timely. Fed. R. Civ. P. 24(a)(1). For the reasons stated by the United
13 States in their Motion, the Court finds that this requirement has been met. (Doc. 1177 at
14 7–13); *NAACP v. New York*, 413 U.S. 345, 365–66 (1973) (“Timeliness is to be
15 determined from all the circumstances.”); *United States v. Oregon*, 745 F.2d 550, 552
16 (9th Cir. 1984) (findings courts should consider the stage of the proceeding, the prejudice
17 to other parties, and the reason for and length of the delay).

18 No party has raised objections to the United States’ intervention, and granting the
19 Motion advances the underlying purpose of § 902, promoting “the strong public interest
20 in obtaining compliance with the equal protection clause of the [C]onstitution.” *Spangler*,
21 415 F.2d at 1246. Further, the interests in ensuring the effective enforcement of civil
22 rights laws, conserving the resources of the judiciary and Defendants, and mitigating the
23 risk of duplicative or inconsistent injunctive decrees all favor permitting intervention in
24 this case.

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