

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA12-653

JERRY D. PATTERSON

APPELLANT

V.

PAUL CHILTON

APPELLEE

Opinion Delivered March 6, 2013

APPEAL FROM THE VAN BUREN
COUNTY CIRCUIT COURT
[NO. CV-2007-320]

HMarch 5, 2013 ONORABLE
MICHAEL A. MAGGIO, JUDGE

AFFIRMED

JOHN MAUZY PITTMAN, Judge

This is an appeal from the denial of a motion to intervene. Appellant was appellee's attorney in a case involving oil and gas leases, and it was agreed that appellant would receive a forty-percent contingency fee payable in money and in an interest in the oil and gas leases. Appellant represented appellee up to the time of negotiations over the meaning of a proposed settlement agreement, when he was dismissed as attorney by appellee. The trial court recognized that appellant had perfected his attorney's lien, but denied his motion to intervene. This appeal follows.

Appellant essentially argues that he was entitled to intervene as of right under Arkansas Rule of Civil Procedure 24 because he claimed an interest in the property that was the subject of the action and because his interest was not adequately protected by existing parties. We do not agree.



Arkansas Rule of Civil Procedure 24(a) deals with intervention as of right. It provides:

Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of this state confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and 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.

If a party seeking intervention will be left with the right to pursue an independent remedy against the parties in the primary proceeding, regardless of the outcome of the pending case, then the party has no interest that needs protecting by intervention of right. *Billabong Products, Inc. v. Orange City Bank*, 278 Ark. 206, 644 S.W.2d 594 (1983). In *Milberg, Weiss, Bershad, Hynes, and Lerach, LLP v. State*, 342 Ark. 303, 28 S.W.3d 842 (2000), the supreme court held that a discharged attorney's petition to intervene as of right in its former client's lawsuit was properly denied both because it was untimely and because the attorney had the right to bring an independent action for attorney's fees. Because the present appellant likewise has the right to bring an independent action for attorney's fees, we cannot say that the trial court erred in denying his motion to intervene.

Affirmed.

GRUBER and WHITEAKER, JJ., agree.

Gray Dellinger, for appellant.

Danielson Law Firm, PLLC, by: *Erik P. Danielson*, for appellee.