UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, *et al.*,	)	
Plaintiffs,	)	Civ. No. 17-2770-ABJ
v.	)	
FEDERAL ELECTION COMMISSION,	)	
Defendant.	)	

PLAINTIFFS' OPPOSITION TO THE PROPOSED INTERVENOR DEFENDANTS' MOTION TO INTERVENE

Two entities, one a trust and one its trustee, seek to intervene as defendants in this action brought pursuant to the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30109(a)(8)(C), and the Administrative Procedure Act, 5 U.S.C. § 706, against the Federal Election Commission ("FEC" or "Commission") challenging the FEC's dismissal of Plaintiffs Citizens for Responsibility and Ethics in Washington's and Anne Weismann's (collectively "Plaintiffs") administrative complaint. In a separate motion, the entities request to proceed using the pseudonyms John Doe 2 and John Doe 1, respectively. As Plaintiffs are not aware of their true identities, Plaintiffs refer to them here as the Doe Intervenors.

The Doe Intervenors fail to satisfy their burden to prove a right to intervene and fail to prove permissive intervention is warranted. The Doe Intervenors, who maintain that they were not the subjects of an administrative proceeding below and thus do not enjoy the benefit of a favorable final judgment that these proceedings imperil, fail to demonstrate any legally protected interest that would be impacted by this litigation. Further, they fail to demonstrate that they have

any divergence of interest with the FEC—the current defendant in the action—and thus fail to show the FEC will not adequately represent their interests. Finally, because they fail to show standing to pursue permissive intervention or show their participation would be helpful, the Doe Intervenors' request for permissive intervention should be denied.

I. The Doe Intervenors Have No Right to Intervene

In deciding whether a proposed intervenor has met its burden of showing a right to intervene under Federal Rule of Civil Procedure 24(a), the D.C. Circuit requires a proposed intervenor to demonstrate: "1) [the] timeliness of the application to intervene; 2) [the possession of] a legally protected interest; 3) that the action, as a practical matter, impairs or impedes that interest; and 4) that no party to the action can adequately represent the potential intervenor's interest." *Crossroads GPS v. FEC*, 788 F.3d 312, 389 (D.C. Cir. 2015). Here, the Doe Intervenors fail to show a legally protected interest that would be impacted by this litigation, and they fail to show that the FEC cannot adequately represent their interests.

A. The Doe Intervenors Fail to Demonstrate a Legally Protected Interested Impacted by This Litigation

Before a party may intervene, the "prospective intervenor 'must demonstrate a legally protected interest in the action.'" *100Reporters LLC v. U.S. Dep't of Justice*, 307 F.R.D. 269, 275 (D.D.C. 2014) (quoting *SEC v. Prudential Sec. Inc.*, 136 F.3d 153, 156 (D.C. Cir. 1998)). "The rule impliedly refers not to *any* interest the applicant can be put forward, but only to a legally protectable one." *City of Cleveland v. Nuclear Regulatory Comm'n*, 17 F.3d 1515, 1517 (D.D. Cir. 1994). Further, "[t]he legally protectable interest . . . must be of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and the effect of the judgment." *Sierra Club v. McCarthy*, 308 F.R.D. 9, 11 (D.D.C. 2015) (internal

quotation marks omitted). Additionally, "prospective intervenors in this circuit must possess standing under Article III of the Constitution." *Jones v. Prince George's County Md.*, 348 F.3d 1014, 1017 (D.C. Cir. 2003); *see also Crossroads GPS*, 788 F.3d at 388 (intervenor defendants must also show standing). Accordingly, the proposed intervenor must also show "(1) an injury-in-fact that is (a) concrete and particularized and (b) actual and imminent, (2) causation, and (3) redressability." *Sierra Club*, 308 F.R.D. at 11.

The Doe Intervenors assert two purported interests to support their motion to intervene. First, they assert that they have an interest in preventing any future investigations that might result from a favorable judgment here, and second they assert an interest in anonymity in the proceeding below, thereby preventing the disclosure of their participation either as the source of or a conduit for a $1.71 million contribution to Now or Never PAC, a federally registered political committee. Neither interest is sufficient to support intervention, however.

1. The Doe Intervenors Enjoy No Legally Protected Interest in Avoiding Future Investigations

The Doe Intervenors first assert an interest in intervening because they suppose that the FEC might investigate them if Plaintiffs are successful here, something they assert would be barred by the statute of limitations otherwise. *See* Mem. of P. & A. in Supp. of Mot. to Intervene by John Doe 1 and John Doe 2 at 6, ECF No. 11 ("Doe Mem."). The mere "possibility of potentially adverse" agency action in the future, however, is insufficient to show a legally protected interest to warrant intervention. *Defenders of Wildlife v. Perciasepe*, 714 F.3d 1317, 1324–25 (D.C. Cir. 2013); *accord Sierra Club*, 308 F.R.D. at 12.

As a preliminary matter, the Doe Intervenors are incorrect that the statute of limitations would bar any further investigation into them, either as a result of a judgment here or as a result

of a new administrative complaint. While the statute of limitations might bar certain types of relief if it were applicable, it would not bar, for example, the FEC from ordering parties to correct incorrect reports or to make public unlawfully withheld information. *See FEC v. Christian Coal.*, 965 F. Supp. 66, 71 (D.D.C. 1997); *FEC v. Nat'l Republican Senatorial Comm.*, 877 F. Supp. 15, 20–21 (D.D.C. 1995).

Nonetheless, the Doe Intervenors argue that their interest in preventing enforcement here is indistinguishable from the interest asserted by Crossroads Grassroots Policy Strategies ("Crossroads GPS") when it successfully sought to intervene as of right in a FECA action. *Crossroads GPS*, 788 F.3d at 318. In that case, Crossroads GPS was a respondent in an FEC adjudication that was the subject of the litigation and was the beneficiary of a "favorable final [agency] judgment" in that administrative matter. *Id.* at 319. Because of that judgment, Crossroads GPS "face[d] no further enforcement proceedings and, as long as the order [was] in place, it bar[red] [the plaintiff] from pursuing the same grievance against Crossroads [GPS]." *Id.* at 317; *see also* FEC, Mot. for Summ. J. a 9, *CREW v. FEC*, No. 16-cv-2255 (D.D.C. Nov. 20, 2017) (stating agency judgment in favor of respondent "precludes further enforcement proceedings"). Distinguishing the case from ones where a party merely speculates about an injury that might result from agency action, the Court of Appeals found that "the favorable FEC ruling provide[d] Crossroads [GPS] . . . with a significant benefit, similar to a favorable civil judgment, and preclude[d] exposure to civil liability." *Crossroads GPS*, 788 F.3d at 317. In other words, it was not the mere desire to avoid future potential adverse agency action that constituted the legally protected interest, but Crossroads GPS's interest in a final judgment which provided it certain enforceable rights. The D.C. Circuit found that "[l]osing the favorable order would be a significant injury in fact" and the "threatened loss of that favorable action" that

would immediately result from an adverse judgment in the FECA litigation "constitutes a concrete and imminent injury." *Id.* at 318.[1] The D.C. Circuit therefore found Crossroads GPS had a right to intervene in the FECA litigation. *Id.*

The Doe Intervenors here argue that they are similarly situated as Crossroads GPS. The problem, however, is that the Doe Intervenors continue to maintain that they "were not respondents" below and were not the subjects of any adjudication. Doe Mem. at 2, 7 (conceding the Doe Intervenors "are not precisely analogous to the proposed intervenor in *Crossroads GPS*, given that the proposed intervenor in that case was an actual respondent to an administrative complaint that had actually been dismissed"). If they were not respondents subject to a proceeding, then they have not been "provide[d] . . . with a significant benefit" of a final agency judgment "similar to a favorable civil judgment." *Crossroads GPS*, 788 F.3d at 317. They therefore lack a legally protected interest sufficient to satisfy Rule 24(a) or Article III standing. *Deutsche Bank Nat'l Trust Co. v. FDIC*, 717 F.3d 189, 194–95 (D.C. Cir. 2013) (noting cases have "equated the legally protected interest requirement of Article III with the 'interest' of Rule 24).

Plaintiffs of course dispute that contention and allege that the Doe Intervenors were in fact respondents in the matter and were subject to a reason to believe determination. *See* Compl. ¶ 31. The Doe Intervenors' standing to intervene is in dispute, however, and a court called upon to evaluate a party's standing at this stage adjudicates that standing based on the relevant party's

[1] For example, a party to an agency adjudication, like a party to civil litigation, may enjoy a right to *res judicata*. *See, e.g.*, *United States v. Utah Const. & Min. Co.*, 384 U.S. 394, 422 (1966) (noting *res judicata* can attach to certain administrative adjudications). Assuming parties to FEC adjudications have the right to *res judicata*, that right would evaporate immediately upon a court's judgment that the administrative decision below was contrary to law.

pleadings. *Nat'l Ass'n of Home Builders v. U.S. Army Corp. of Engineers*, 519 F. Supp. 2d 89, 92 (D.D.C. 2007) (rejecting proposed intervenor's motion because intervenor's pleadings failed to show cognizable injury); *Cty. of San Miguel v. MacDonald*, 244 F.R.D. 36, 45 n.15 (D.D.C. 2007) (finding proposed intervenor-defendant must demonstrate standing under same standards as plaintiff, *i.e.*, standing based on their own pleadings); *see also Holistic Candler and Consumers Ass'n v. FDA*, 664 F.3d 940, 943 (D.C. Cir. 2012) (in evaluating standing, courts "must accept the factual allegations in the [pleadings] as true"). That inquiry is hobbled by the fact that the Doe Intervenors provided no such pleading, despite the requirement under Rule 24(c) that a proposed intervenor provide one. Fed. R. Civ. P. 24(c). Nonetheless, the factual assertion in the proposed motion to dismiss, which the Doe Intervenors identify as their substitute pleading, Doe Mem. at 2 n.1, is that the Doe Intervenors were not respondents below and were not the subject of any agency proceedings, *see* Proposed Mot. to Dismiss at 15, ECF No. 11-1 ("John Does were never respondents to Plaintiffs' administrative complaint."); *id.* at 16 (asserting that because John Does were not respondents, "it cannot be the case that there was any order dismissing" proceedings against them).

Assuming the Doe Intervenors' factual assertions are true, as the Court must for the purposes of this inquiry, then the Doe Intervenors have no standing to intervene here. They are not and cannot be the beneficiaries of any "favorable final judgment" that they seek to protect by means of intervention because the Commission only issues such judgments with respect to the subjects of its adjudications. *Cf. Crossroads GPS*, 788 F.3d at 319.

Absent a legal claim to a final agency judgment, the Doe Intervenors have no legal right that would be "direct[ly] and immediate[ly] . . . los[t] by the direct legal operation and the effect of the judgment" in this action. *Sierra Club*, 308 F.R.D. at 11. Unlike Crossroads GPS, who

would have lost the rights it earned in the final agency judgment immediately upon the conclusion of the litigation in which it sought to intervene, the Doe Intervenors lose nothing. In this litigation, the Court will only decide whether the dismissal below was contrary to law; the Court will not be deciding itself whether the Doe Intervenors violated the law. *FEC v. Akins*, 524 U.S. 11, 25 (1998) ("If a reviewing court agrees that the agency misinterpreted the law, it will set aside the agency's action and remand the case."); 52 U.S.C. § 30109(a)(8)(C) (remedy for dismissal contrary to law is declaration of such and remand with direction for Commission to conform). While the Doe Intervenors *may* be the subject of further agency investigation and possible sanction *if* they are the source of or conduits for the $1.71 million contribution to Now or Never PAC or if they otherwise assisted in hiding the name of the true source of that contribution, the mere "possibility of potentially adverse" agency action is insufficient to support intervention. *Perciasepe*, 714 F.3d at 1325; *Sierra Club*, 308 F.R.D. at 12. They are, according to their own pleadings, no differently situated than the thousands of other organizations and individuals who may find themselves the subject of an FEC investigation in the future.

2. The Doe Intervenors' Interest in Remaining Anonymous is Not Legally Protected

While the Doe Interveners assert an interest in remaining anonymous, they recognize that their potential right to anonymity by mere reason of their involvement in an FEC investigation is not the subject of this litigation. Doe Mem. at 7-8; *see also* Compl., *John Doe 1, et al. v. FEC*, No. 17-cv-2694 (D.D.C. filed Dec. 19, 2017). Rather, the only way the Doe Intervenors' anonymity would be impacted here is if the Court finds it was contrary to law for the FEC to dismiss Plaintiffs' complaint without identifying the true source of or conduits for the $1.71 contribution to Now or Never PAC, and if the FEC investigates and the agency finds reason to believe the Doe Intervenors were those true sources or conduits. Of course, in that case, the Doe

Intervenors would have no legally protected interest in anonymity because the Federal Election Campaign Act requires disclosure of such persons. 52 U.S.C. §§ 30104(b)(3)(A), 30122; 11 C.F.R. §§ 110.4(b), 110.6.

One need not merely speculate, however, about whether that the Doe Intervenors were the source of or conduits for the $1.71 million contribution to Now or Never PAC: they have already conceded that in a judicial forum. In the related litigation, one of the grounds the Doe Intervenors assert for their requested anonymity is that disclosure of their identities would "chill the future exercise of their free speech rights." *See* Pls.' Emergency Mot. for TRO and Prelim. Inj. at 5, 14–15, *Doe v. FEC*, No. 17-cv-2694-ABJ (D.D.C. Dec. 19, 2017), ECF No. 13.[2] The only speech that was relevant in that litigation and that could be chilled by such disclosure was "their political activity," namely, their "contribution to a Super PAC that made independent expenditures in support of candidates for federal office." *Id.* at 2, 14. Thus, they asserted, revealing their participation in the contribution would violate their First Amendment rights to have made that contribution anonymously. In other words, the Doe Intervenors asserted a First Amendment claim premised on their admitted participation in the $1.71 million contribution to Now or Never PAC. The merits of that claim aside, it necessarily concedes that the Doe Intervenors participated in activity that subjected them to disclosure.

The Doe Intervenors have made very plain that they have a strong desire to remain anonymous, despite their conceded participation in reportable campaign activity. That interest, however, is not legally protected—rather it is legally proscribed—and its invasion is not a

[2] The Court may take notice of a party's admissions in a judicial forum. *Mdewakanton Sioux Indians of Minn. v. Zinke*, 264 F. Supp. 3d 116, 123 n.12 (D.D.C. 2017) (holding that "a publicly available court filing meets" the criteria for judicial notice); Fed. R. Evid. 801 (statement of party opponent admissible).

cognizable injury remediable by this court. It thus cannot serve as the basis for intervention. *See Voltage Pictures, LLC v. Vazquez*, 277 F.R.D. 28, 31 (D.D.C. 2011) (holding plaintiff's interest in protecting ability to anonymously engage in copyright infringement was not legally protected and thus could not justify intervention); *Maverick Entm't Group, Inc. v. Does 1-2, 115*, 276 F.R.D. 389, 393–94 (D.D.C. 2011) (same); *see also Disner v. United States*, 888 F. Supp. 2d 83, 88 (D.D.C. 2012) (holding that plaintiff had no reasonable expectation of privacy in funds that plaintiff voluntarily transferred to third party), *aff'd mem.*, 2013 WL 1164502 (D.C. Cir. Feb. 20, 2013).[3]

B. The Doe Intervenors Fail to Show the FEC Cannot Adequately Defend the Case

In addition to failing to raise a legally protected interest that would be impacted here, the Doe Intervenors fail to show that the FEC will not adequately represent them. While the burden of satisfying this factor is "not onerous," *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.D. Cir. 2003), the intervening party must still show that their interests may not be adequately represented, *see In re Brewer*, 863 F.3d 861, 872 (D.C. Cir. 2017). "[T]he mere fact that there is a slight difference in interests between the applicant and the supposed representative does not necessarily show inadequacy, if they both seek the same outcome." *Nuesse v. Camp*, 385 F.2d 694, 703 (D.C. Cir. 1967); *see also Alfa Int'l Seafood v. Ross*, 321 F.R.D. 5, 9 (D.D.C. 2017) (where intervenor and party only disagree about issues that are not the subject of the current litigation, intervention is improper), *appeal docketed*, No. 17-5138 (D.C. Cir. Jun. 7, 2017).

[3] Similarly, because disclosure of the identities of those who are the source of or conduits for large contributions to political committees is mandated by law, the Court cannot order relief that would contravene that mandated disclosure. *See, e.g.*, *Local 28 of Sheet Metal Workers' Int'l Ass'n v. EEOC*, 478 U.S. 421, 447 (1986) (noting court may not order that contravenes statute). The Doe Intervenors' purported injury from potential disclosure is therefore not redressable.

Where the proposed intervenor's and party's positions are "identical," the representation is not inadequate. *See* Order at 9, *John Doe 1 v. FEC*, No. 17-cv-2694 (ABJ) (D.D.C. Jan. 31, 2018).

The Doe Intervenors cannot show the FEC will not represent their interests because their interests are identical here. The subject of this litigation is the propriety of the FEC's action, and thus the Doe Intervenors seek to intervene solely to defend that governmental action. That, of course, is the exact position the FEC will be taking here.

In response, the Doe Intervenors once again rely on *Crossroads GPS*. Doe Mem. at 9 (citing *Crossroads GPS*, 788 F.3d at 321). In that case, however, the Court found it "apparent" that "the Commission and Crossroads [GPS] [held] different interests" because the two entities "disagree[d] about the extent of the Commission's regulatory power, the scope of the administrative record, and post-judgment strategy." 788 F.3d at 321. The Doe Intervenors, however, point to no such disagreements here. Indeed, here, the FEC does not even oppose their intervention. *See* Mot. to Intervene at 2.

Nonetheless, in an attempt to manufacture a disagreement, the Doe Intervenors posit that the Commission "might refuse not only to appeal any adverse decision but may refuse to defend against this lawsuit at all." Doe Mem. at 10. The Doe Intervenors' concerns, however, are "speculative." Order at 9, *John Doe 1*; *see also* Pls.' Mem. In Opp. To Mot. to Intervene at 12, *John Doe 1 v. FEC*, No. 17-cv-2694 (ABJ) (D.D.C. filed Jan. 17, 2018) (arguing concern the FEC might not appeal adverse decision is "highly speculative").

Next, the Doe Intervenors' focus on the statements of one commissioner who voted to find reason to believe they violated the law is also insufficient to show a divergence of views. *See* Doe Mem. at 9–10 (recounting statements by Commissioner Ellen L. Weintraub). While

plaintiffs are in agreement with that commissioner, her views are not the subject of the litigation here.

Rather, when reviewing the Commission's decision not to find reason to believe a person violated the law, the court reviews the statements of those commissioners who voted against finding reason to believe, even if those commissioners were not a majority of the Commission and thus do not speak on behalf of the agency. *Democratic Cong. Campaign Comm. v. FEC*, 831 F.2d 1131, 1133 (D.C. Cir. 1987) (requiring three commissioners who voted against recommendation to find reason to believe to provide statement of reasons explaining their vote to enable judicial review under 52 U.S.C. § 30109); *see also Common Cause v. FEC*, 842 F.2d 436, 449 n.32 (D.C. Cir. 1988) ("[F]or any *official* Commission decision there must be at least a 4-2 majority vote."). Here, that statement is the Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioner Lee Goodman. Compl. Ex. 5; *see also id.* Ex. 4 (certification of 2-3 vote on FEC staff recommendation to find reason to believe the Doe Intervenors violated the FECA, with Commissioners Goodman, Hunter, and Petersen voting against the recommendation).[4]

With respect to those commissioners whose statements are controlling, the Doe Intervenors appear to be in complete agreement. Both the Doe Intervenors and the controlling commissioners believe the vote on reason to believe without a prior vote to add the Doe Intervenors as respondents was "irregular." *Compare* Compl. Ex. 5 at 1 n.2 *with* Proposed Mot.

[4] Commissioner Petersen did not sign his colleagues' Statement of Reasons apparently because, at the time, he was nominated for a judicial appointment. *See, e.g.*, President Donald J. Trump Announces Seventh Wave of Judicial Candidates, Sept. 7, 2017, https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-seventh-wave-judicial-candidates/.

to Dismiss at 16. They have all accused Commissioner Weintraub, and by extension the FEC staff, of "publicly prejudging" the Doe Intervenors' guilt. *Compare* Compl. Ex. 5 at 3 n.8 *with* Doe Mem. at 9. They all apparently believe that the statute of limitations has run on any claim against the Doe Intervenors and that justifies the dismissal below. *Compare* Coml. Ex. 5 at 3–4 *with* Doe Mem. at 6. They all assert that the commissioners have discretion to pick and choose which organizations must follow the law, a discretion which insulates the decision below from review here. *Compare* Compl. Ex. 5 at 4–5 *with* Proposed Mot. to Dismiss at 13.

In short, the positions of the Doe Intervenors and the FEC in this litigation are identical and the Doe Intervenors fail to identity any area of dispute they have with the controlling commissioners. Accordingly, they fail to show the FEC will not adequately represent their interests.

II. The Doe Intervenors Fail to Show Permissive Intervention Would Assist the Court

Alternatively, the Doe Intervenors seek permissive intervention pursuant to Federal Rule of Procedure 24(b). Doe Mem. at 10–11. The Doe Intervenors fail, however, to show such intervention is warranted.

In the D.C. Circuit, permissive intervention requires "(1) an independent ground for subject matter jurisdiction; (2) a timely motion; and (3) a claim or defense that has a question of law or fact in common with the main action." *EEOC v. Nat'l Children's Ctr., Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998). In addition, "[permissive] intervenors must demonstrate Article III standing." *Keepseagle v. Vilsack*, 307 F.R.D. 233, 245–56 (D.D.C. 2014) (citing *Deutsche Bank*, 717 F.3d at 193; *id.* at 195–96 (Silberman, J., concurring in opinion he wrote) (noting Circuit rule requires "all intervenors to demonstrate Article III standing")). The Court may also consider whether intervention will "significantly contribute to the just and equitable adjudication of the

legal question presented." *In re Endangered Species Act Section 4 Deadline Litig.*, 277 F.R.D. 1, 8 (D.D.C. 2011) (hereinafter *In re EPA*) (ellipses omitted) (citing *H.L. Hayden Co. of New York, Inc. v Siemens Med. Sys., Inc.*, 794 F.2d 85, 89 (D.C. Cir. 1986)). "[P]ermissive intervention is an inherently discretionary enterprise," *EEOC*, 146 F.3d at 1046, and thus a "the Court may deny permission to intervene even if the applicant satisfies the necessary criteria." *In re EPA*, 270 F.R.D. 1, 6 (D.D.C. 2010).

For the reasons stated above, *see supra* Part I.A., the Doe Intervenors do not possess Article III standing, which alone defeats their request for permissive intervention. They are, assuming their own factual assertions as true, not the beneficiaries of any final agency adjudication that they seek to protect and they have no lawfully protected interest to anonymity that is relevant to this case. Their concern about the mere "possibility of potentially adverse" agency action is too speculative and not sufficiently concrete. *Perciasepe*, 714 F.3d at 1325. They therefore cannot intervene, even by permission.

The Court should also deny permissive intervention because the Doe Intervenors have not shown their participation would "significantly contribute to the just and equitable adjudication of the legal question presented." *In re EPA*, 277 F.R.D. at 9. The Doe Intervenors have already demonstrated themselves to be prolix litigators, s*ee* Minute Order, *John Doe 1 v. FEC*, No. 17-cv-2694 (ABJ) (D.D.C. Jan. 24, 2018), and they identify nothing in their motion to intervene that they can add to this litigation and that the FEC itself cannot not provide. They identify no expertise in the legal questions this case will entail: the scope of judicial review under the FECA, the standard for that judicial review, or the rules federal law applies to the disclosure of political contributions. *In re EPA*, 277 F.R.D. at 9 (denying permissive intervention where intervenors' "experience and expertise . . . have no bearing on the [question] here in dispute").

Instead, the Doe Intervenors threaten to raise a number of collateral issues like whether they have a right against public release of their identities, Doe Mem. at 7–8, or whether their due process rights were impacted in the underlying proceedings, *see* Pls.' Reply Mem. in Supp. of Mot. for Prelim. Inj. at 2, *John Doe 1 v. FEC*, 17-cv-2694 (ABJ) (D.D.C. filed Jan. 3, 2018), ECF No. 25. Their "desire to inject their substantive concerns" here "threatens to delay resolution of the claims pending between the original parties." *Envtl. Integrity Project v. McCarthy*, 319 F.R.D. 8, 17 (D.D.C. 2016).

The Doe Intervenors fail to show they have standing to seek permissive intervention and that their invention would contribute to the equitable adjudication here. They therefore fail to show permissive intervention is warranted.

CONCLUSION

For the reasons stated above, Plaintiffs respectfully request the Court deny the Doe Intervenors' motion to intervene under Rule 24(a) and Rule 24(b).

Respectfully submitted,

March 15, 2018

/s/ Stuart McPhail
Stuart McPhail (D.C Bar No. 1032529)
smcphail@citizensforethics.org
Adam Rappaport (D.C. Bar. No. 479866)
arappaport@citizensforethics.org
Citizens for Responsibility and Ethics in Washington
455 Massachusetts Ave., N.W.
Washington, D.C. 20001
(202) 408-5565
Fax: (202) 588-5020

Counsel for Plaintiffs Citizens for Responsibility and Ethics in Washington and Anne Weismann