

John,

Neither Illona nor I received Notification of Service of this Proposed Order when it was filed in Court. Mitch Armstrong emailed this Proposed Order. We do not have a Notification of Service to docket with the Proposed Order, so please keep this notice attached when docketing.

Thank you.

Sue

- (1) is given an unconditional right to intervene by a statute; or
- (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Under Rule 24(a), a movant must show 1) the motion is timely, 2) the movant claims a direct interest in the subject of the lawsuit, 3) disposing of the suit will practically impair or impede the movant's interest, and 4) no current party adequately represents the movant's interest.

Here, Bremer meets all four criteria. See 7C Wright, et al., Fed. Prac. & Proc. Civ. § 1908 Intervention under the 1966 Amended Rule—In General, § 1908 (3d ed.). The burden is not intended to be high for a motion to intervene under Rule 24(a): “Intervention has historically been liberally granted in North Dakota.” Brigham Oil & Gas, L.P. v. Lario Oil & Gas Co., 2011 ND 154, ¶ 40, 801 N.W.2d 677, 689 (quoting Eichhorn v. Waldo Twp. Bd. of Sup'rs, Cnty. of Richland, 2006 ND 214, ¶ 13, 723 N.W.2d 112, 116). Here, Bremer meets all four requirements to intervene in this action.

¶4. First, Bremer's motion was timely filed, even prior to the time for needing to respond to the Commission's application for appointment as trustee. There is also no apparent prejudice to any party from Bremer intervening at this very early stage of the action. Second, Bremer appears to have a direct interest in the assets that may comprise the trust estate in this matter. A lien interest is sufficient to constitute a direct interest for Rule 24(a), Quick v. Fischer, 417 N.W.2d 843 (N.D.1988), and Bremer appears to have a lien on the grain or its proceeds that would be a part of the trust herein. Third, disposing of this action without Bremer becoming a party will as a practical matter impair Bremer's ability to protect its interests. The grain or its proceeds will likely be in the hands of the Commission as trustee

who will dispose of those proceeds and its disposition could as a practical matter make Bremer's ability to collect on its loan to the Respondent Grand Forks Bean Company, Inc. much more difficult if not impossible. Fourth, there is no current party that represent's Bremer's interests. Bremer is not a receiptholder, and so the Commission does not represent Bremer. The Respondent Grand Forks Bean Company, Inc. is not representative of its creditor.

¶5. In sum, Bremer has asserted a good claim to intervene in this matter due to its property interest in the corpus of any trust in this insolvency proceeding. Therefore, the court ORDERS as follows:

¶6. Bremer's Motion to intervene is GRANTED. The clerk of court shall amend the court's files to recognize Bremer Bank, National Association as a Respondent herein, and the caption of this matter shall be amended accordingly as shown in the proposed Answer, Counterclaim, and Crossclaim filed by Bremer along with its motion. Bremer is granted leave to serve and file its Answer, Counterclaim, and Crossclaim as attached to its Motion to Intervene.

Dated this ____ day of _____, 2015.

BY THE COURT

Hon. Jon J. Jensen
JUDGE OF DISTRICT COURT