

In the
Supreme Court of the United States

EDWARD HEDICAN,

Movant,

v.

WALMART STORES EAST, L.P., WAL-MART STORES, INC., and
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Respondents.

**RESPONSE IN OPPOSITION TO MOTION FOR LEAVE TO
INTERVENE TO FILE A PETITION FOR WRIT OF CERTIORARI**

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September 7, 2021

CORPORATE DISCLOSURE STATEMENT

Wal-Mart Stores East, LP ("WSELP") is an indirect, wholly-owned subsidiary of Walmart Inc. WSE Management, LLC is the general partner of WSELP, and WSE Investment, LLC is the limited partner of WSELP. Wal-Mart Stores East, LLC is the sole member for each of WSE Management, LLC and WSE Investment, LLC. Walmart Inc. is the sole member of Wal-Mart Stores East, LLC.

Walmart Inc. is a Delaware corporation that is publicly traded on the New York Stock Exchange, with its headquarters in Bentonville, Arkansas. Walmart Inc. has no parent corporation. Alice L. Walton, Jim C. Walton, the John T. Walton Estate Trust, S. Robson Walton, the Walton Family Holdings Trust, and Walton Enterprises, LLC, each has a greater than 10% beneficial ownership of stock issued by Walmart Inc.

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Walmart Stores East, L.P. and Wal-Mart Stores, Inc. (collectively “Walmart”)¹ opposes Mr. Hedican’s motion to intervene. The motion is untimely and there is no pending case before this Court in which Mr. Hedican should be allowed to intervene.

The district court and Seventh Circuit both held that Walmart did not discriminate against Mr. Hedican. *See* App.1a-7a; 13a-34a. The Equal Employment Opportunity Commission (“EEOC”) asked the Seventh Circuit for rehearing *en banc*, *see* App.40a-57a, but the Seventh Circuit declined, *see* App.39a. Two days later, Mr. Hedican sought for the first time to intervene. *See* App.58a-85a. In that motion, Mr. Hedican explained that he wished to intervene in order to file a petition for certiorari, making arguments virtually identical to his present motion. *Id.* The Seventh Circuit denied Mr. Hedican’s motion because it was untimely. App.35a-36a (“[T]he motion to intervene is DENIED as untimely. Edward Hedican had opportunity to intervene before the case was argued to the panel many months ago.”). Mr. Hedican moved for *en banc* reconsideration, which was also denied. App.37a-38a.

Mr. Hedican now moves for this Court’s permission to intervene. *See* Mot. 1. But that request overlooks the prior denial of intervention by the Seventh Circuit—which was properly within the court’s discretion—and the issuance of the mandate. *See Izumi Seimitsu Kogyo Kabushiki Kaisha v. U.S. Philips Corp.*, 510 U.S. 27, 30 (1993) (per curiam) (“Because the Court of Appeals denied petitioner’s motion for

¹ The correct legal name of “Walmart Stores East, L.P.” is “Wal-Mart Stores East, LP.” The correct legal name of “Wal-Mart Stores, Inc” is “Walmart Inc.,” as the company changed its name on February 1, 2018.

intervention, [petitioner] is not a party to this particular civil case. One who has been denied the right to intervene in a case in a court of appeals may petition for certiorari to review that ruling.”). Unlike the unexplained ruling granting intervention in *Banks v. Chicago Grain Trimmers Association*, 389 U.S. 813 (1967), where the movant had not been denied intervention below, Mot. 7, here, Mr. Hedican’s intervention request has already been fully adjudicated and denied by the Seventh Circuit. Mr. Hedican has not sought this Court’s review of that decision and there is no pending case in which Mr. Hedican can seek to intervene. *Cf. Order, Arizona v. San Francisco, CA, et al.*, 593 U.S. ____ (June 1, 2021). Moreover, Mr. Hedican has represented that the Solicitor General’s office “has not yet determined whether it will seek review in this Court, or on what questions it might seek review if it did.” Mot. 2; *see also* Mot. 10. Relying on *Banks*, therefore, is inapt.

CONCLUSION

The Court should deny the motion for leave to intervene.

Respectfully submitted,

/s/ Jeremy M. Bylund

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