

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION**

Sheila Cole, *et al.*,
Plaintiffs,

vs.

The State of Arkansas, *et al.*,
Defendants.

Case No. CV 2008-14284

MOTION TO INTERVENE

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Pat O'Brien Pulaski Circuit Clerk
CR1 By _____

Comes now the Family Council Action Committee and Jerry Cox and for their Motion to Intervene state as follows:

1. On November 4, 2008, a majority of Arkansas voters approved the Arkansas Adoption and Foster Care Act (Act 1), which prohibits an individual who is cohabitating outside of marriage from adopting or fostering children.

2. On December 30, 2008, the plaintiffs commenced this action to ask the court to declare Act 1 unconstitutional, and to ask the court to enjoin the state of Arkansas from enforcing Act 1 in the future.

3. FCAC, as sponsor of Act 1, is entitled to intervene because its substantial and recognized interest in Act 1—derived from its invocation of the people's power under Amendment 7 to the Arkansas Constitution to pass law via initiative, as well as its investment in Act 1 as its official sponsor—will be indelibly nullified if the plaintiffs' demand for relief is granted.

4. In the alternative, FCAC should be permitted to intervene because its substantial interests in defending Act 1, and the plaintiffs' challenge to the validity of Act 1 involve common questions of law and fact.

5. Cox, as the President of FCAC, and as a supporter of Act 1 who has worked and voted to pass that initiative, is directly concerned by the outcome of this litigation, and his right to protect his investment—time, reputation, and resources—in Act 1 will be indelibly nullified if plaintiff's demand for relief is granted.

6. In the alternative, Cox should be permitted to intervene because his substantial interests in defending Act 1, and the plaintiffs' challenge to the validity of Act 1 involve common questions of law and fact.

7. FCAC and Cox's basis for intervention is set out more fully in the papers submitted in support of this motion.

8. In support of this motion, FCAC and Cox submit the Memorandum of Law in Support of the Motion to Intervene, the Affidavit of Jerry Cox in Support of the Motion to Intervene, and the proposed Answer of Intervenors.

9. FCAC and Cox rely on all other documents, papers, and things of record.

10. FCAC and Cox also rely on the Court's judicial notice of all matters relevant, material, and necessary to decide the issues on this motion.

WHEREFORE, FCAC and Cox move the Court,

1. For an Order allowing FCAC and Cox to intervene in this action.
2. For a hearing on the Motion to Intervene, if needed and
3. That FCAC and Cox have such other, further, and general relief to which they are entitled.

Respectfully submitted this the 16th day of January, 2009.

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**Pro hac vice pending*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by U.S. Mail, First Class, postage prepaid on the following:

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