

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Drewes Farms Partnership,

Case No. 3:19 CV 434

Plaintiff,

ORDER GRANTING
MOTION TO INTERVENE

-vs-

City of Toledo,

JUDGE JACK ZOUHARY

Defendant.

In a February 2019 special election, Toledo voters amended the City of Toledo municipal charter (Doc. 1 at ¶ 45; Doc. 12 at ¶ 45). Plaintiff Drewes Farms Partnership contends the amendment is invalid (Doc. 1 at ¶ 2). Seeking to challenge the amendment alongside Drewes Farms, the State of Ohio moves to intervene (Doc. 13). The City does not oppose (Doc. 19).

“On timely motion,” a district court may allow intervention in a lawsuit by “anyone . . . who . . . has a claim or defense that shares with the main action a common question of law or fact.” Federal Civil Rule 24(b)(1)(B). “In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” Federal Civil Rule 24(b)(3). *See also United States v. Michigan*, 424 F.3d 438, 445 (6th Cir. 2005). The State here argues that its constitution, statutes, and administrative regulations preempt the City’s charter amendment (Doc. 13 at 3). Drewes Farms asserts the same arguments, among others (Doc. 1 at 20, 24). The State therefore “has a claim . . . that shares with the main action a common question of law.” Furthermore, this Court perceives no reason why the State’s intervention at this early stage would unduly delay or prejudice the lawsuit’s just adjudication.

Before a non-party intervenes, it typically “must . . . serve[] on the parties . . . a pleading that sets out the claim or defense for which intervention is sought.” Federal Civil Rule 24(c). The State has not served such a pleading. This Court excuses the omission because (1) the Motion is unopposed and (2) the Memorandum accompanying the Motion notifies the parties of the State’s position and arguments. *See Providence Baptist Church v. Hillandale Comm., Ltd.*, 425 F.3d 309, 314 (6th Cir. 2005). The Motion to Intervene (Doc. 13) is granted.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

May 1, 2019