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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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LAVERY, C. J., dissenting. I disagree with the conclusion reached by the majority because I believe that there is no basis in law for the assumption on which the opinion impliedly is premised, that is, for an individual or entity to intervene in an action, it must have the standing necessary to have brought the original action itself. By considering the motion to intervene filed by the appellant, Laurel Woods, Inc. (Laurel Woods), as inseparable from its motion to confirm the arbitration award at issue, the majority obscures the issue before us.

I agree with the majority's determination that Laurel Woods, as a nonparty to the management agreement between the plaintiff, Donald L. Franco, and the defendant, East Shore Development, Inc. (East Shore), which agreement contains an arbitration clause, could not apply to the court pursuant to General Statutes § 52-417 for an order confirming the arbitrator's award. See *Hartford* v. *Local 308*, 171 Conn. 420, 429, 370 A.2d 996 (1976). I differ, however, as to the relevance of that determination to the disposition of Laurel Woods' motion to intervene.[1]

To support intervention, a prospective intervenor must show that it has some legally protected interest in the subject matter of the litigation. 59 Am. Jur. 2d 594–95, Parties § 176 (2002).[2] "A proposed intervenor must allege sufficient facts, through the submitted motion and pleadings, if any, in order to make a showing of his or her right to intervene. The inquiry is whether the claims contained in the motion, if true, establish that the proposed intervenor has a direct and immediate interest that will be affected by the judgment." *Washington Trust Co.* v. *Smith*, 241 Conn. 734, 747, 699 A.2d 73 (1997).

Nonetheless, there is no requirement that a prospective intervenor, in its motion to intervene, assert the *same* claim as the plaintiff in the original action. As we stated in *State Board of Education* v. *Waterbury*, 21 Conn. App. 67, 571 A.2d 148 (1990), "[s]uch a restriction on intervention finds no support . . . in common sense. The whole point of intervention is to allow the participation of persons with interests distinct from those of the original parties; it is therefore to be expected that an intervenor's standing will have a somewhat different basis from that of the original plaintiffs." (Internal quotation marks omitted.) Id., 75.

"To hold otherwise would be to conclude that an intervenor must allege the exact issues as those alleged by the original plaintiffs, and would, therefore, be in direct opposition to and in contradiction with the requirement that in order for intervention to be war-

ranted, the prospective plaintiffs must show that their rights are not adequately represented by the present parties. Once a party has been granted intervention as of right, the scope of issues raised in a proposed complaint is logically within the authority and discretion of the trial court.'' Id., 75–76; see also *Rosado* v. *Bridgeport Roman Catholic Diocesan Corp.*, 60 Conn. App. 134, 151–52, 758 A.2d 916 (2000) (holding that seven priests should have been allowed to intervene in action for damages for alleged sexual abuse by particular priest for purpose of filing motion to quash and for protective order and otherwise to prevent disclosure of private, confidential information from their respective personnel files). Therefore, the fact that Laurel Woods could not join East Shore in the motion to confirm the arbitration award should not have been fatal to Laurel Woods' attempt to intervene in the confirmation proceedings.

In its motion to intervene, Laurel Woods averred that ''[o]n September 8, 2000, while the arbitration proceedings were pending, East Shore Development, Inc., assigned all of its right, title and interest in any arbitration award it might receive to Laurel Woods'' and appended documentation evidencing that assignment. Laurel Woods thus asserted, by virtue of the assignment, a legally protected interest in the subject matter of the litigation, the arbitration award, that was sufficient to support its motion to intervene in the confirmation proceedings. If the court found the other conditions for intervention[3] satisfied, it ought to have granted the motion.

Despite the majority's assurances that an alternate remedy is available, I believe that it is important that Laurel Woods be allowed to intervene in the present action[4] to pursue its claim to the arbitration award because a potential outcome of the proceedings is vacation of that award. The plaintiff has filed an application to vacate pursuant to General Statutes § 52-418 and, while the parties were awaiting the court's decision on the motions to intervene and to confirm the arbitration award, the plaintiff exercised an option to become an 80 percent shareholder of the defendant. Thus, the defendant's ability to pursue its motion to confirm (and to contest the application to vacate) has been compromised. Furthermore, if the plaintiff is successful on the application to vacate, no award will remain for which Laurel Woods may seek confirmation in a separate common-law action, as suggested by the majority. Laurel Woods, as a nonparty to the agreement containing the arbitration clause, will have no right to compel arbitration anew. Under the circumstances, I believe that denying Laurel Woods the right to intervene is not only improper, but unjust.

I would reverse the judgment.

[1] Although Laurel Woods captioned its motion as one for joinder, its substance is that of a motion to intervene. ''[I]ntervention is a proceeding

by which a person, not originally a party to an action, is permitted to and does become a party to the pending proceeding for the protection of some right or interest alleged by him to be affected by the proceeding . . . . 'Joinder' is a method by which one may be compelled to become a party, whereas 'intervention' is a method by which an outsider with an interest in a lawsuit may come in as a party on his or her application.'' 59 Am. Jur. 2d 579, Parties § 161 (2002). Where a party captions its motion improperly, ''we look to the substance of the claim rather than the form.'' (Internal quotation marks omitted.) *Dyck O'Neal, Inc.* v. *Wynne*, 56 Conn. App. 161, 164, 742 A.2d 393 (1999); see *In re Brianna F.*, 50 Conn. App. 805, 812, 719 A.2d 478 (1998).

[2] General Statutes § 52-107, the statute governing intervention, provides in relevant part that ''[i]f a person not a party has an interest or title which the judgment will affect, the court, on his application, shall direct him to be made a party.''

[3] There are ''four requirements that an intervenor must show to obtain intervention as of right. The motion to intervene must be timely, the movant must have a direct and substantial interest in the subject matter of the litigation, the movant's interest must be impaired by disposition of the litigation without the movant's involvement and the movant's interest must not be represented adequately by any party to the litigation.'' *Rosado* v. *Bridgeport Roman Catholic Diocesan Corp.*, supra, 60 Conn. App. 140.

[4] The majority does not explain why Laurel Woods necessarily must pursue common-law enforcement of the arbitration award in a separate action instead of amending its motion to intervene to allege that right.