

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Carolyn D. Callahan v. Brookdale Senior Living Communities, Inc.

No. 20-55603, 20-55761, United States Court of Appeals for the Ninth Circuit (July 29, 2022)

OPINION

PER CURIAM.

FOR PUBLICATION UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CAROLYN D. CALLAHAN, on behalf No. 20

California Virginia A. Phillips, Chief District Judge, Presiding Argued and Submitted July 26, 2021 Pasadena, California Filed June 29, 2022 Amended July 29, 2022 4 CALLAHAN V. BROOKDALE SENIOR LIVING CMTIES.

assert the interests of the LWDA, and allowing Neverson to intervene would not significantly contribute to the factual development of issues in the case.

The panel concluded that the district court did not err in denying Nev

court's denial of Neverson's motion to intervene.

We hold that Neverson is not a party to Callahan's case and may not appeal the approval of the P

transaction, happening, or event,” “call for determination of the same or substantially related or similar questions of law and fact,” or “for other reasons would entail substantial duplication of labor if heard by different judges.” C.D.

allocated for attorneys' fees from \$306,666.67 to \$230,000.00. Neverson timely appealed both the order denying her motion to intervene and the district court's order approving the PAGA settlement.

CALLAHAN V. BROOKDALE SENIOR LIVING CMTIES. 13 We have reviewed the parties' supplemental briefs and letters directing us to additional authorities. 4 STANDARD OF REVIEW We review de novo a district court's denial of a motion to intervene as a matter of right, with the exception of

15 Glickman, 159 F.3d 405, 409 (9th Cir. 1998)). Courts construe Rule 24(a) “broadly in favor of proposed intervenors.” *Id.* (quoting *United States ex. rel. McGough*

presumption; we instead rely upon our rule that a proposed intervenor must make a compelling showing of inadequate representation when her interest is identical to that of an existing party.

See Arak

reach this issue on appeal.

For these reasons, we conclude that Neverson has failed to make the required showing that Callahan did not adequately represent her interests. We therefore affirm

She asserts that if this were dispositive, a PAGA plaintiff 20 CALLAHAN V. BROOKDALE SENIOR LIVING CMTIES. could never be granted permissive intervention in an overlapping PAGA action under Rule 24(b)(2). This result, she argues, would be contrary to the policy

procedural rules while we apply federal procedural rules in this case. Compare *id.* at 121 (“For purposes of appellate standing, an unnamed party may become a party to an action through intervention (Code Civ.