

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

CHRISTIAN FRIENDS OF ISRAELI
COMMUNITIES, CHRISTIANS FOR
ISRAEL USA,

Plaintiffs,

v.

FRANCESCA PAOLA ALBANESE,

Defendant.

Civil Action No. 1:25-cv-2805

Plaintiffs' Opposition to the United Nations' Motion to Intervene

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Preliminary Statement

Plaintiffs Christian Friends of Israeli Communities and Christians for Israel USA are American Christian Zionist nonprofit organizations that lawfully support Israeli civilian communities and promote positive relations between Christians, Jews, and the Jewish State of Israel. Their mission is driven by their sincere religious views, including their belief in Biblical prophecy related to Israel and the Jewish nation. Defendant Francesca Paola Albanese is a private individual who previously served as the United Nations Special Rapporteur “on the situation of human rights in the Palestinian territories occupied since 1967” (“Special Rapporteur OPT”). As of May 1, 2025, as Plaintiffs allege, Defendant’s mandate has expired and she no longer validly holds any position with the UN. Regardless, defamation of innocent parties is outside the scope of the duties of a Special Rapporteur. In April 2025, Defendant sent letters to Plaintiffs accusing them of serious international crimes, including war crimes and crimes against humanity, and warning that Plaintiffs and their executives faced potential criminal liability. These accusations were later made public, in a publication titled *From Economy of Occupation to Economy of Genocide* (“the Report”), published in July 2025, despite Plaintiffs’ lawful activities—and after Plaintiffs and US government officials, including the US Department of Justice (“DOJ”) in May 2025, warned Defendant that her statements were false, illegal, and defamatory. Plaintiffs brought this action to hold Defendant accountable for statements made after the termination of any arguable immunity and, alternatively, outside the scope of any protected function.

On September 8, 2025, Plaintiffs filed a complaint against Defendant for defamation, trade libel, and intentional interference with prospective economic advantage. ECF 1. On October 25, 2025, Plaintiffs attempted to serve Defendant while she was in South Africa, in compliance with

both the Federal Rules of Civil Procedure and South African law. Defendant intentionally evaded service. On November 28, 2025, Plaintiffs filed a motion requesting that the court recognize this attempt as proper service, or in the alternative to grant substitute service through Defendant's email address and X social media account. ECF 13, ECF 21. On January 8, 2026, Plaintiffs filed a notice regarding Defendant's failure to oppose the Motion, as had been anticipated given that Defendant has repeatedly vowed to refuse to accept service of the Complaint in this matter. ECF 15, ECF 23. On January 21, 2026, the Court ordered supplemental briefing on the issue of Defendant's putative immunity, ECF 16, which Plaintiffs filed on February 26, 2026. ECF 25. On May 14, 2026, the Court granted Plaintiffs' motion for substitute service by email and Defendant's X social media account. ECF 26. On May 15, 2026, Plaintiffs complied with the Court order and Defendant was served a copy of the Summons, Complaint, and the Order on service. Plaintiffs subsequently filed proof of completed service. ECF 35. Defendant failed to respond to the Complaint. The Court Clerk entered default against her on June 8, 2026. ECF 44.

On June 5, 2026, the United Nations ("UN" or "Proposed Intervenor") filed a Motion to Intervene for purposes of filing a Motion to Dismiss on behalf of Defendant. ECF 40. On June 12, 2026, four days after the Clerk entered default and before this Court ruled on intervention, the UN belatedly lodged a "[Proposed]" motion to dismiss under Rules 12(b)(1), 12(b)(2), and 12(b)(5). ECF 47. That proposed motion does not acknowledge the entry of default, let alone move to set it aside; it defends a single sentence in Defendant's July 2025 report while saying nothing about the April 2025 letters Defendant sent directly to Plaintiffs, on which the Complaint is also based; and it asks this Court, which it insists lacks jurisdiction even to receive service, to dismiss this case

with prejudice. ECF 47 at 1–3, 15. In essence, the UN sought the Court’s acquiescence with no legal basis other than the anticipated deference it attempts to impose as its due.

Separately, the UN then filed a motion to vacate the entry of default against Defendant. ECF 48. There, the UN acknowledges that the last day Defendant had to respond to the Complaint, “the UN sought to intervene for the limited purposes of asserting immunity on behalf of Ms. Albanese.” ECF 48 at 5. This, as argued below, is manifestly not the appropriate use of intervention, which is a device meant to protect the legitimate and otherwise unrepresented interests of a third-party to an action, not a ploy by which a Defendant can avoid appearing and attempt to litigate through a third party.

One month before the UN filed this motion to intervene, it confronted the same immunity question in related litigation. Defendant’s husband and child are challenging the sanctions imposed on Defendant by the federal government in the United States District Court for the District of Columbia, and the UN expressed its views on Defendant’s immunity there the way it has always expressed them in American courts: by letter. *Cali v. Trump*, No. 1:26-cv-00688-RJL, ECF 48 at 7 (D.D.C. May 13, 2026). It did not seek party status. What changed between that letter and this motion is not the UN’s interest in the immunity of its experts. It is the procedural posture here: Defendant was served, refused to respond, and defaulted. The motion should be denied.

Argument

Intervention is not a remedy to be granted lightly. *Oklahoma v. U.S. Dep’t of the Interior*, 569 F. Supp. 3d 1155, 1159 (W.D. Okla. 2021) (“Rule 24 ‘is not a mechanical rule’ but instead ‘requires courts to exercise judgment based on the specific circumstances of the case.’”); *Ohio Valley Env’t Coal., Inc. v. McCarthy*, 313 F.R.D. 10, 16 (S.D. W. Va. 2015) (explaining that reviewing an application to intervene “does not . . . entail resolving every possible doubt in favor of intervention, and Federal Rule of Civil Procedure 24 sets standards for intervention that must be observed and applied thoughtfully by courts.”).

A motion to intervene filed nine months after the filing of the Complaint, unaccompanied by the pleading Rule 24(c) requires, by a Proposed Intervenor whose supposed interest is already adequately represented and whose participation would prejudice Plaintiffs, should be denied. Moreover, a motion to intervene being used as a procedural device to circumvent the Federal Rules of Civil Procedure, including the consequences of Defendant’s refusal to appear and resultant default, is a misuse of Rule 24 that this Court should reject.

I. The Motion is Procedurally Defective on its Face and the UN Lacks Standing to Seek the Only Relief it Identifies

Before the Court reaches the Rule 24(a) factors, the motion fails on its face. Rule 24(c) commands that a motion to intervene “must . . . be accompanied by a pleading that sets out the claim or defense for which intervention is sought.” Fed. R. Civ. P. 24(c). The UN attached nothing. Its motion conceded the omission and asked this Court to treat a then-unfiled motion to dismiss as the pleading the Rule requires. ECF 40 at 11 n.2. The UN has since lodged that proposed motion, ECF 47, and the defect remains, because the Court has now seen the UN’s filings and none constitute a pleading. Rule 7(a) defines “pleadings” exhaustively, and a motion under Rule 12,

whether promised, proposed, or filed, is not among them. Courts deny intervention for precisely this failure. *See Abramson v. Pennwood Inv. Corp.*, 392 F.2d 759, 761 (2d Cir. 1968) (affirming denial of intervention where the movant failed to attach the required pleading); *Shevlin v. Schewe*, 809 F.2d 447, 450 (7th Cir. 1987) (“Federal Rule of Civil Procedure 24(c) is unambiguous in defining the procedure for an intervenor.”).

The defect is not a technicality; it is the motion’s design. The UN cannot file a pleading because pleadings are what *parties* file, and the UN’s entire theory is that it is absolutely immune from ever being treated as one. Its motion accordingly “expressly reserves all rights, defenses, privileges and immunities,” disclaiming “a waiver of any kind.” ECF 40 at 11. The UN thus proposes to intervene as a party, file a dispositive motion, and obtain a ruling, all while declaring itself immune from this Court’s jurisdiction, exempt from its orders, and beyond the reach of any judgment. Intervenors become parties, subject to the obligations of parties, including discovery, costs, and compliance with the Court’s orders. The UN seeks party status for purposes of winning and non-party status for every other purpose. No rule of procedure contemplates a litigant that may demand rulings from a Court whose jurisdiction the litigant simultaneously rejects. The proposed motion to dismiss exposes the contradiction on its face: it tells this Court it lacks jurisdiction even to order service of process, then asks the Court to dismiss this case with prejudice—a disposition with preclusive effect that only a court with jurisdiction can render—while the UN reserves “all rights, defenses, privileges and immunities.” ECF 47 at 1, 15. Heads the UN wins; tails it is immune.

The motion fails for a second, independent threshold reason: the UN lacks Article III standing to pursue the only relief it identifies. An intervenor of right “must meet the requirements

of Article III [standing]” whenever it pursues “relief not requested” by an existing party. *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433, 439–40 (2017). Defendant has sought no relief; she defaulted. The dismissal the UN seeks is therefore relief no party has sought, and the UN must establish its own injury in fact, fairly traceable to this litigation, and redressable by a favorable ruling. Its own brief defeats that showing. The UN insists that it is absolutely immune from all legal process, that no judgment of this Court can bind it, and that nothing it files here constitutes waiver. By the UN’s own account, then, this litigation cannot reach it, compel it, or preclude it from any future assertion of its immunities. An entity that nothing in a case can ever reach has no concrete injury from the case’s outcome. The UN cannot be untouchable for purposes of immunity and injured for purposes of standing in the same brief.

II. Proposed Intervenor is Not Entitled to Intervention as of Right

Federal Rule of Civil Procedure 24(a) permits intervention as of right where four requirements are met: (1) the Proposed Intervenor’s application is timely; (2) the Proposed Intervenor has a direct, substantial and legally protectable interest relating to the underlying dispute; (3) the disposition of the action may impede or impair the Proposed Intervenor’s interest; and (4) the Proposed Intervenor’s interest is not adequately represented by existing parties. *In re Kaiser Steel Corp.*, 998 F.2d 783, 790 (10th Cir. 1993). Here, the Proposed Intervenor’s application fails as to each requirement. Plaintiffs do not quarrel with the UN’s observation that the Tenth Circuit applies these requirements practically rather than mechanically, *Kane Cty. v. United States*, 928 F.3d 877, 890–91 (10th Cir. 2019), and they embrace that standard here: even on a practical view, and even under the “minimal burden” the UN invokes, a supposed interest cannot support intervention when it is premised on coordination between the Proposed Intervenor

and Defendant, and would effectively grant the would-be intervenor with relief from a judgment that would not in any way impair its interests.

A. Motion is Not Timely

That a motion to intervene be timely is a threshold requirement, not a mere factor for the court to consider. *NAACP*, 413 U.S. 345, 366–67 (1973) (concluding that application to intervene was untimely because proposed intervenors “knew or should have known” of the pendency of the suit for over three months without moving to intervene); *Oklahoma ex rel. Edmondson v. Tyson Foods, Inc.*, 619 F.3d 1223, 1232 (10th Cir. 2010). The court assesses timeliness considering all the circumstances, with three factors being particularly important: (1) the length of time since the Proposed Intervenor knew of its interests in the case; (2) prejudice to the existing parties; and (3) prejudice to the Proposed Intervenor. *Id.* The court will also consider any “unusual circumstances” that may be at play. *Id.*

i. Proposed Intervenor’s Application is Significantly and Unjustifiably Delayed.

Delay in an application to intervene is measured “from when the movant was on notice that its interests may not be protected by a party already in the case.” *Edmondson*, 619 F.3d at 1232. Here, the Complaint was filed on September 8, 2025, and the Proposed Intervenor should have known of the pendency of the action from that date, including through media coverage of the lawsuit. *Nevilles v. Equal Emp. Opportunity Comm’n*, 511 F.2d 303, 305 (8th Cir. 1975) (explaining the burden is on the would-be intervenor to demonstrate that they had no notice of the action). At the very latest, the Proposed Intervenor had actual knowledge of the pendency of this suit since October 25, 2025, when Plaintiffs attempted to serve Defendant while she was in Johannesburg, South Africa. As testified to in a sworn affidavit, when Plaintiffs’ process servers in South Africa attempted to serve Defendant, she contacted one or more individuals at the UN who instructed her

to evade service. *See* ECF 13-1, Ex. C, Aff. of Justin Saul Berman, at ¶ 31 (attesting that Defendant “had allegedly been advised by legal counsel from the United Nations not to accept service”). The Proposed Intervenor was, therefore, aware of any supposed interest it claims to have in this case for nine or, at the very least, eight months before moving to intervene.

Any lingering doubt has now been removed by the UN itself. Its proposed motion to dismiss attaches a letter from UN Legal Counsel to the U.S. Representative to the UN, dated October 3, 2025, asserting Defendant’s immunity. ECF 47, Ex. A. The UN was formally asserting Defendant’s immunity, in writing, through counsel, within four weeks of the Complaint and three weeks before Plaintiffs’ attempt at personal service in South Africa. The UN thus documented its own knowledge of the case eight months before it moved. Then it filed the proof.

The UN does not dispute that it was on notice. Instead, the UN argues that, up until Defendant was served on May 15, 2026, it believed the Court would simply throw out the Complaint *sua sponte*. Mot. at 6. This wait-and-see approach as an excuse for delay has been roundly and widely rejected by the courts. *S. Utah Wilderness All. v. Kempthorne*, 525 F.3d 966, 971 (10th Cir. 2008) (denying application as untimely because a movant may not “simply wait and see if the trial’s outcome leaves intervention desirable with its attendant risk of undoing what the trial court has already done” (quoting *Plain v. Murphy Family Farms*, 296 F.3d 975, 980–81 (10th Cir. 2002)); *Muscogee (Creek) Nation v. City of Tulsa*, No. 23-CV-490-JDR-SH, 2026 WL 736961, at *6 (N.D. Okla. Mar. 16, 2026) (“Optimism that this Court would grant a dismissal is not a valid reason for delaying a motion to intervene. In general, ‘if parties take a wait-and-see approach to intervention, they lose on timeliness.’” (quoting *United States v. Michigan*, 68 F.4th 1021, 1028 (6th Cir. 2023) (cleaned up)); *Schmidt v. City of Norfolk*, No. 2:24cv621, 2025 WL 1502994, at *4 (E.D. Va. May

27, 2025) (“Plausible justifications for tardiness [in seeking leave to intervene] may include a significant change in the circumstances of the case.” However, “a strategic decision not to intervene sooner due to a belief that the court would grant a motion to dismiss cannot justify tardiness.”).

Additionally, the UN was aware the Court was not prepared to reflexively dismiss the Complaint based on alleged immunity given this Court’s request in January for supplemental briefing on this very issue. *Brown v. U.S. Dep’t of Lab.*, No. 13-CV-01722-RM-MJW, 2017 WL 2986494, at *1–2 (D. Colo. July 13, 2017) (denying intervention as inexcusably delayed when the proposed intervenor failed to timely apply even after a letter was on the docket that asked the proposed intervenor to “express its views on the lawsuits”). Yet, even then, the UN did nothing. Proposed Intervenor’s lengthy delay in its application based on the speculative assumption that the court will *sua sponte* dismiss is no excuse, and the motion should be denied on this basis alone. The UN’s gesture toward the 60-day response periods afforded the United States and foreign states, Mot. at 6, refutes itself: the UN is neither, and it invokes those deadlines by analogy while insisting, in the same brief, that it and Defendant have no obligation to respond to this Court’s process at all.

ii. Intervention at this Stage Would Prejudice Plaintiffs.

The UN’s untimeliness would be the direct cause of prejudice to Plaintiffs, as the Proposed Intervenor’s decision to only intervene now, after a nine-month delay since the opening of proceedings, and five months after the Court ordered briefing on the immunity issue, is timed exactly with Defendant’s default. Plaintiffs face prejudice from an intervention that would disturb the default now already entered, which would reopen proceedings (as the UN attempts to do with its improper motion to dismiss), and require re-litigation of immunity issues Plaintiffs already

briefed in February. *Tennille v. W. Union Co.*, No. 09-CV-938-JLK, 2015 WL 13938169, at *1 (D. Colo. Dec. 21, 2015) (rejecting attempted intervention timed for resolution of litigation as the ploy would prejudice the parties, and was aimed to “thwart” and “hold hostage” the proceedings); *Edmondson*, 619 F.3d at 1236 (rejecting intervention for prejudice to existing parties as the “delay would create prejudice—prejudice that would not have resulted from an earlier intervention”). Moreover, the UN’s motion to vacate the Clerk’s entry of default against Defendant acknowledges the collusion between the Proposed Intervenor and Defendant to manipulatively disrupt proceedings, rather than properly engaging with the litigation process. ECF 48 at 5–6.

To allow the UN to intervene in this litigation as a party would serve no purpose other than to waste the resources of the Court, delay the appropriate disposition of this case, and reward the improper conduct of both Defendant and the Proposed Intervenor.

iii. Denial of Intervention Would Not Prejudice the Proposed Intervenor.

The Proposed Intervenor would not be prejudiced by denial as the appropriate measure for the UN to have its positions heard in this case is an amicus brief, not intervention. The Proposed Intervenor does not cite a single case, nor can it, where the UN moved to intervene in a case against an actual or purported UN official for purpose of asserting the defendant’s immunity; nor have Plaintiffs found a single such case in support. This would be an entirely improper use of intervenor, expanding it well beyond its intended use.

Proposed Intervenor cites *Askir v. Boutros-Ghali*, 933 F. Supp. 368 (S.D.N.Y. 1996) for support, but that case only highlights the defects and misguided nature of the instant motion. In *Askir*, the UN did *not* move to intervene and was not added as a party to the action; the *Askir* court heard and reviewed the UN’s position on immunity through a letter. *Id.* at 370. Moreover, the

procedural posture of *Askir* is inapposite; there, “[t]he U.N. Defendants [had] not been served with the summons and complaint” and there was no argument over whether the UN defendants were, in fact, UN officials. *Id.* Here, Plaintiffs have served Defendant and dispute that Defendant is in any way UN personnel entitled to immunity. Thus, it is Defendant, not the UN, who must appear before this Court and present any argument regarding her claimed immunity. Of course, Defendant has forfeited opportunity by defaulting.

Because the UN’s interests may be adequately captured through amicus participation, full party status is both unnecessary and inappropriate. *Thompson v. Masterson*, No. 23-CV-4120-TC-GEB, 2024 WL 3844746, at *9 (D. Kan. Aug. 16, 2024); *McCarthy*, 313 F.R.D. at 16 (offering amicus as a sufficient alternative); *McHenry v. Comm’r*, 677 F.3d 214, 227 (4th Cir. 2012) (denying intervention as any views the proposed intervenor had on the issue of its concern, namely “views it has on the IRS’s interpretation of the U.S. Tax Code can easily be expressed in an amicus brief”). The Proposed Intervenor may bring its position to the court’s attention through an amicus or letter as it has done in past cases, and as it did one month before filing this motion in the related litigation over Defendant’s sanctions, *see infra* Part III, without suffering any prejudice.

Finally, denial of the application “cannot be prejudicial to” the Proposed Intervenor when it would be the direct result of the UN’s own “fail[ure] to intervene sooner.” *Brown v. United States Dep’t of Lab.*, No. 13-CV-01722-RM-MJW, 2017 WL 2986494, at *4 (D. Colo. July 13, 2017). Allowing the UN to intervene in this case would simply constitute a reward for the UN’s own dilatory conduct.

iv. Unusual Circumstances in this Case Militate Against Intervention

A particularly troubling aspect of the timing of the UN's motion is that it comes only after Plaintiffs successfully served Defendant and was filed on the very last day Defendant had to respond to the lawsuit, for the express purpose of attempting to stand in for a Defendant who refuses to appear in court. *See* ECF 48 at 5. Proposed Intervenor takes the position that despite Plaintiffs serving Defendant in a manner compliant with this Court's Order granting substitute service, that Defendant "has no obligation to respond to the Complaint." ECF 40 at 4. This proposition is wrong, and it reveals the motion's purpose: to spare Defendant the consequences of her own refusal to appear.

After Defendant intentionally evaded service in South Africa and made clear that she would knowingly attempt to evade service wherever and whenever Plaintiffs found her at the UN's direction—a directive now confirmed to have come from the UN in its own filings, ECF 47-1—the Court ordered an alternative method of service with which Plaintiffs complied. ECF 35. If Defendant believed service to have been improper—due to claims of immunity or any other basis—there was a mechanism through which to challenge service: a Federal Rule of Civil Procedure 12(b)(5) motion for insufficient service of process.¹ Of course, that defense has now been waived as Defendant chose to ignore service and default instead. *Grimaldo v. Reno*, 189 F.R.D. 617, 619 (D. Colo. 1999) (holding that government officials sued in their individual capacities waived 12(b)(5) and qualified immunity defenses when they failed to properly brief

¹ Note that even if wrongly allowed to intervene, the UN would have no standing to bring such a defense on Defendant's behalf, just as it has no standing to bring a motion to dismiss as it has attempted to do. *Medina v. Samuels*, No. 20-CV-01443-NYW, 2020 WL 7398772, at *6 n.4 (D. Colo. Dec. 17, 2020) ("Defendant Miller makes arguments on behalf of other Defendants not party to her Motion to Dismiss, but Defendant Miller lacks standing to assert such arguments.")

these issues in their motion to dismiss). Defendant is not simply absolved of appearing in court and responding to a properly served Complaint and Summons because she and Proposed Intervenor believe her to be immune.

Intervention is a procedural device designed to allow non-parties with genuine, independent interests to participate in litigation; it is not a tool for defendants to use third parties as proxies to avoid the consequences of their own refusal to engage in the litigation process. *Cf. R & G Mortg. Corp. v. Fed. Home Loan Mortg. Corp.*, 584 F.3d 1, 12 (1st Cir. 2009) (rejecting motion to intervene brought to challenge a sealing order, where the request “touches upon an issue of transparency in the federal judicial system,” and cautioning that extreme measures like sealing records “are not like party favors, available upon request or as a mere accommodation”); *see also Hutchinson v. Pfeil*, 211 F.3d 515, 519 (10th Cir. 2000) (“intervention is not a means to escape the consequences of noncompliance with traditional rules of . . . jurisdiction and procedure,” concerning intervention at the appellate level). Allowing Proposed Intervenor’s maneuver would send a message to defendants that they can immunize themselves from default by arranging for sympathetic third parties to intervene on their behalf, undermining the integrity of the judicial system.

There is a further structural problem. The Clerk has entered Defendant’s default. ECF 44. The UN’s “proposed” motion to dismiss cannot proceed unless that default is first set aside, and Rule 55(c) relief runs to a party showing good cause, not to a non-party whose own counsel advised the defaulting defendant to evade this Court’s process in the first place. *See* Fed. R. Civ. P. 55(c); ECF 13-1, Ex. C, Aff. of Justin Saul Berman, at ¶ 31. The UN’s proposed motion to dismiss confirms the design: lodged four days after the Clerk entered default, it does not mention the

default, much less move to set it aside or attempt a showing of good cause. ECF 47. And even in the UN's later-filed motion to vacate the entry of default, they do not deign to try and show good cause, the most basic requirement of any attempt to have default set aside. ECF 48 at 4 ("There is no need to parse the good cause factors in this case because the Clerk's entry of default is void."). Instead, the UN's motion reveals that intervention is being used here as a skeleton key to Rule 55. ECF 48 at 5. The Court should decline to hand it over.

The unusual circumstances of this litigation can be reduced to a single sentence: the Proposed Intervenor's own counsel advised Defendant to evade this Court's process in October, and the Proposed Intervenor now moves this Court for the privilege of party status in June. Those circumstances weigh heavily against granting the UN's motion. Based on the untimeliness of the application alone, the UN's motion should be denied.

B. Proposed Intervenor Has No Direct, Legal Interest in this Action

The Proposed Intervenor cannot demonstrate that it has a direct, substantial, and legally protectable interest relating to the underlying dispute. *Goodall v. Williams*, No. 18-CV-00980-PAB, 2018 WL 2008849, at *5 (D. Colo. Apr. 28, 2018) (rejecting all four of the proposed intervenor's supposed interests as either irrelevant or too general). The interest asserted by the UN is the question of Defendant's immunity. This fails as a distinct interest of the Proposed Intervenor for two reasons.

First, if the UN is in truth representing Defendant, as it admits to doing in its motion to set aside default, ECF 48 at 5, a motion to intervene is the improper vehicle; a Defendant must respond to a lawsuit directly, not through intermediaries. *Second*, if the UN is purporting to have an interest distinct from any supposed immunity redounding to Defendant, no such interest emerges. The

UN's asserted institutional immunity interest does not constitute a direct, legally protectable interest in this litigation, particularly where the immunity issue is fact-specific and can be raised by Defendant herself. Plaintiffs disagree with Defendant and the UN that Defendant possesses any immunity with respect to the Complaint's claims. However, the instant question is not Defendant's immunity or lack thereof, but whether the UN has any basis for thrusting itself into this action *as a party* to mount that immunity argument. Defendant's interest in avoiding the consequences of her defamation under cover of immunity is obvious, and she was fully capable of mounting that argument. Moreover, as *Askir* demonstrates, the UN need not become a party to make its view known on immunity. 933 F. Supp. at 370.

Thus, what emerges is the reality that the UN and Defendant's interest is actually identical. *See* ECF 48 at 5; Email Communication from Counsel for the Proposed Intervenor to Plaintiffs' Counsel (June 1, 2026), attached hereto as Exhibit A ("We represent the United Nations, which intends to file a motion to intervene in the above-referenced case for the limited purpose of ***asserting immunity of the UN and the defendant.***" (emphasis added)); *S. Utah Wilderness All. v. Kempthorne*, 525 F.3d 966, 970 (10th Cir. 2008) (denying intervention where the interest was shared by both the defendant and the nonparty); *Tri-State Generation & Transmission Ass'n, Inc. v. New Mexico Pub. Regul. Comm'n*, 787 F.3d 1068, 1072 (10th Cir. 2015) (denying intervention where "the objective of the applicant for intervention is identical to that of one of the parties" (internal citations and quotations omitted)).

The UN purports to argue that the entire enterprise of UN immunity is at stake with this litigation, Mot. at 7, but no such issue is present or implicated by this litigation. The UN is not on trial here. An individual named Francesca Albanese who defamed Plaintiffs has been sued. The

UN has as little interest here as it would, hypothetically, in divorce proceedings between Defendant and her husband. Defendant has been sued for injuries to Plaintiffs committed as a layperson, well outside the scope of any functional immunity. If Defendant has immunity to raise as a defense to this litigation, she had every opportunity to do so. And the UN's theory proves too much. If the UN's institutional stake in the CPIUN conferred intervention as of right whenever one of its experts is sued, the UN could intervene as of right in every lawsuit against any of its tens of thousands of personnel, in every court in the country, indefinitely. No court has ever so held, and in the eighty years since the Convention was adopted the UN has apparently never once tried, which is why its brief instead can muster only a nonbinding 1996 case about a letter.

Nor is intervention how the immunity of UN-affiliated personnel reaches American courts. When the United States considers such a person immune, the Department of Justice files a Statement of Interest or Suggestion of Immunity under 28 U.S.C. § 517, and the court receives the Executive's views through that channel. That is, in substance, how the UN's position reached the court in *Askir* itself: through a letter, not party status. 933 F. Supp. at 370. Here, the Executive has spoken, and it has spoken *against* the UN's position. The Secretary of State designated Defendant for sanctions on July 9, 2025, pursuant to Section 1(a)(ii)(A) of Executive Order 14,203, 90 Fed. Reg. 9369 (Feb. 12, 2025) (hereafter "EO 14203"), stating that her activities "have long made her unfit for service as a Special Rapporteur." U.S. Dep't of State, Press Statement, *Sanctioning Lawfare that Targets U.S. and Israeli Persons* (July 9, 2025), <https://www.state.gov/releases/office-of-the-spokesperson/2025/07/sanctioning-lawfare-that-targets-u-s-and-israeli-persons> (hereafter "State Dep't Sanctions Designation"); ECF 1 at ¶¶ 72–73. DOJ warned Defendant before she published that the accusations she was making privately

and was planning to make publicly constituted defamation. ECF 1 at ¶ 37. No Statement of Interest supporting her immunity has been filed in this case. The UN's motion is an attempt to manufacture, through Rule 24, the Executive endorsement that immunity assertions in American courts have always traveled through, and that this one conspicuously lacks.

The UN pursues the inaccurate position that Plaintiffs arguments regarding Defendant's lack of immunity "are *entirely* dependent on collateral attacks on the UN's procedures for appointing its experts and reviewing complaints against them." Mot. at 9 (emphasis added). But Plaintiffs have presented multiple distinct bases as to why Defendant lacks immunity, only one of which has anything at all to do with internal UN procedures. *See* ECF 1 at ¶¶ 59–60; *see also* ECF 25. Plaintiffs also argue that an individual under sanctions by the federal government, like the Defendant, is *ipso facto* susceptible to legal process in the United States. *See* ECF 1 at ¶¶ 72–74; ECF 25 at 9–10; State Dep't Sanctions Designation (designating Defendant pursuant to Section 1(a)(ii)(A) of EO 14203).

The UN relies heavily on a non-binding advisory opinion of the International Court of Justice ("ICJ"), Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion, 1999 I.C.J. 62 (Apr. 29), which concluded that a defamation claim brought in Malaysia against a Special Rapporteur, for statements made *within* his mandate, was barred by immunity. That is a merits argument, and it belongs in a properly presented motion, not in this one. It is also doubly distinguishable. First, in that case the country in which the defamation claims were brought, Malaysia, *acknowledged* the defendant was a Special Rapporteur. Here the United States has repeatedly expressed its view that Defendant Albanese is no longer legitimately serving as Special Rapporteur and has thereby found her to be

sanctionable for her illegal activities and susceptible to the American justice system. ECF 1 at ¶¶ 69–75; *see also* State Dep’t Sanctions Designation. This distinction is not academic. As Plaintiffs have already briefed, the US Government determines to whom it grants immunity; that is not a matter dictated to the federal government. *See* ECF 25 at 8–10. Second, whether Defendant’s conduct fell within the performance of any mission, and indeed whether she held a valid mandate at all when she acted, is at the very least contested, and in an American courtroom that question is decided by the court, not determined by the Secretary-General’s say-so. ECF 25 at 11–14.

As for the ICJ advisory opinion’s force in an American court: in *Medellin v. Texas*, the Supreme Court held that even a binding ICJ judgment is not self-executing domestic law, because it is for the “political branches to determine whether and how to comply with an ICJ judgment.” 552 U.S. 491, 504–11 (2008). An advisory opinion can hardly demand more.² Here, the US Government has made its determination: Defendant is not a Special Rapporteur; Defendant does not enjoy the immunity that experts on mission are granted within the scope of that work; and Defendant *is* subject to the American legal system. *See* State Dep’t Sanctions Designation; ECF 25 at 8–10. The UN’s proposed motion to dismiss, for its part, cites the district court’s preliminary injunction against Defendant’s sanctions, ECF 47 at 14 n.10, without disclosing that the D.C.

² Moreover, the US has in recent years emphasized that ICJ advisory opinions “are exactly that: they are not binding” and sometimes even “a political tool makes a mockery of international law.” US Mission to the UN, Explanation of Position Before the Vote on a UN General Assembly Resolution on the ICJ Advisory Opinion on Obligations of Israel (Dec. 12, 2025), *available at* <https://usun.usmission.gov/remarks-at-the-general-assembly-61st-plenary-meeting-80th-session>. When such advisory opinions deal with matters of diplomatic recognition and foreign policy, they are even less than persuasive authority if they contradict the federal government’s positions on these matters.

Circuit stayed that injunction on May 22, 2026. *Cali v. Trump*, No. 26-5172, 2026 WL 1613422 (D.C. Cir. May 22, 2026). In fact, the sanctions stand.

C. Disposition Will Not Impair the Proposed Intervenor’s Supposed Interest.

Impairment is tied inextricably with the existence of an interest; where the former does not exist, the latter cannot be proven. *Fed. Deposit Ins. Corp. v. Jennings*, 816 F.2d 1488, 1492 (10th Cir. 1987) (“We have recognized that the interest and impairment requirements of Rule 24(a)(2) are intertwined.”). Where, as here, Plaintiffs sue an erstwhile UN expert on mission for defamation made in her individual capacity, the UN as a Proposed Intervenor cannot satisfy the impairment-of-interest element.

First, as Plaintiffs have argued, Defendant’s personal conduct taken outside the scope of her rapporteurship is not protected by UN immunity. *See* ECF 25 at 6–14. *Second*, any judgment against Defendant would not bind the UN nor foreclose the UN’s ability to assert its own institutional immunities in any future proceeding. *Jennings*, 816 F.2d at 1492 (denying intervention where the proposed intervenor “would not be bound by res judicata or collateral estoppel from litigating” issues in the future). The disposition of the defamation action against Defendant, which currently is at the default stage, will not, as a practical matter, impair the UN’s interests. Indeed, the UN cannot have it both ways. It insists that no judgment of this Court can ever bind it, reach it, or waive anything it holds, and in the same breath claims that this case’s disposition will impair it. By the UN’s own theory of absolute immunity, there is nothing here for it to lose. *Degge v. City of Boulder, Colo.*, 336 F.2d 220, 222 (10th Cir. 1964) (citing *Archer v. United States*, 268 F.2d 687, 690 (10th Cir. 1959)).

Moreover, as the Fourth Circuit has held, the impairment prong is not met where the proposed intervenor could express its views through amicus brief. *McHenry v. Comm'r*, 677 F.3d 214, 227 (4th Cir. 2012). The UN knows it need not be a party to this action to express its views; its citations of *Askir* and the D.C. Circuit proceedings brought by Defendant's relatives prove that.

D. The Proposed Intervenor's Supposed Interest is Adequately Represented.

Where the existing parties already adequately represent the Proposed Intervenor's interests, intervention as of right *must* be denied. Fed. R. Civ. P. 24(a)(2); *Tri-State Generation & Transmission Ass'n, Inc. v. New Mexico Pub. Regul. Comm'n*, 787 F.3d 1068, 1072 (10th Cir. 2015). Where the Purported Intervenor and the Defendant's interests are identical, adequate representation is presumed, and the Proposed Intervenor carries the burden to demonstrate inadequate representation, which the UN has flatly failed to do. *Bottoms v. Dresser Indus., Inc.*, 797 F.2d 869, 872–73 (10th Cir. 1986).

In *Bottoms*, the Court affirmed denial of intervention, finding that where the Proposed Intervenor had “an identical interest and motivation in obtaining the greatest possible recovery” with an existing party, there was adequate representation—even though a serious dispute did exist between the two on certain issues. *Id.* at 872. Where the interests of the Proposed Intervenor and an existing party are identical, the Proposed Intervenor was required to “make ‘a concrete showing of circumstances . . . that make [the existing party's] representation inadequate.’” *Id.* (quoting 7A C. Wright & A. Miller, *Federal Practice & Procedure* § 1909, at 529 (1972)).

The UN has not made *any* effort to demonstrate that its alleged interest is inadequately represented by existing parties. Instead, it merely argues that it desires to be the one to argue Defendant's immunity. Mot. at 9; *see also* Exhibit A; *see also* ECF 48 at 5. This is not an argument

about inadequacy of representation; it's a request that the Court should simply honor Defendant and the Proposed Intervenor's procedurally-defective preference for which of them should handle the briefing in this case. *Goodall v. Williams*, No. 18-CV-00980-PAB, 2018 WL 2008849, at *7 (D. Colo. Apr. 28, 2018) ("The Court finds that the intervenors' arguments do not demonstrate inadequate representation so much as their desire to expand the scope of this lawsuit.").

The UN will doubtless respond that a defendant in default represents nothing, so any representation is inadequate by definition. The answer is threefold. First, the inadequacy is self-inflicted. The UN's own counsel advised Defendant to evade service, ECF 13-1, Ex. C, Aff. of Justin Saul Berman, at ¶ 31, and the UN's own motion declares that she "has no obligation to respond to the Complaint," ECF 40 at 4. The UN engineered the empty chair, and it now points to the empty chair as its grounds for intervention. A movant cannot manufacture the inadequacy it invokes any more than it can wait and see whether intervention becomes desirable. *Cf. Kempthorne*, 525 F.3d at 971. Second, what the UN actually seeks is not representation of a distinct interest but substitution of Defendant's interest: it proposes to stand in the well where the defaulting Defendant should be standing. Rule 24 is not a defendant-replacement mechanism. Third, the safeguards that matter already exist. This Court has an independent obligation to confirm its own subject matter jurisdiction, an obligation it has already discharged sua sponte, *twice*, and the UN's views can reach the Court through amicus participation, the path the UN itself chose in *Cali* one month before filing this motion. The Court does not need a defaulting defendant's sponsor as a party in order to get the law right.

The Proposed Intervenor relies on *Utahns for Better Transp. v. U.S. Dep't of Transp.*, 295 F.3d 1111 (10th Cir. 2002) to argue that it offers "unique expertise" that is inadequately represented,

Mot. at 9–10, but the UN misstates the holding of *Utahns*. There, the Court granted intervention because it believed that the intervenor “provide[d] expertise the government agencies may be lacking,” specifically because “the government’s prospective task of protecting not only the interest of the public but also the private interest of the petitioners in intervention is on its face impossible and creates the kind of conflict that satisfies the minimal burden of showing inadequacy of representation.” *Id.* at 1117 (cleaned up). But, here, the UN is stating that it plans to argue immunity equally on behalf of itself and Defendant; it is not proposing that there is a conflict or deficiency in how Defendant would have independently presented the immunity defense. Again, it comes down to the fact that the UN has directed Defendant not to appear in Court and now asks the Court to bless the result.

Thus, the UN has made argument nowhere near sufficient to overcome the presumption of adequate representation where interests are identical, and for this reason alone, even if the Court were to conclude that some elements of Rule 24 were met, the motion must be denied. *S. Utah Wilderness All. v. Kempthorne*, 525 F.3d 966, 970 (10th Cir. 2008) (denying intervention where the presumption of adequate representation based on identical interests was not rebutted); *Tri-State Generation & Transmission Ass’n, Inc. v. New Mexico Pub. Regul. Comm’n*, 787 F.3d 1068, 1072 (10th Cir. 2015) (the same).

III. Permissive Intervention is Unwarranted

Permissive intervention under Rule 24(b) is discretionary, and in determining whether such intervention is warranted, “a court may consider such factors as: (1) whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights; (2) whether the would-be intervenor’s input adds value to the existing litigation; (3) whether the petitioner’s interests are

adequately represented by the existing parties; and (4) the availability of an adequate remedy in another action.” *United States v. N. Colo. Water Conservancy Dist.*, 251 F.R.D. 590, 599 (D. Colo. 2008); *Degge v. City of Boulder, Colo.*, 336 F.2d 220, 222 (10th Cir. 1964) (affirming denial permissive intervention on the grounds that intervention would result in delay and prejudice to the original parties).

First, the timeliness requirement is stricter in permissive intervention than in intervention as of right. 7C Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice & Procedure* § 1916 (3d ed. 2007) (“Even though the timeliness requirement applies to both intervention of right and permissive intervention, a different standard is used, depending on the type of intervention sought, in determining what is timely. Since in situations in which intervention is of right the would-be intervenor may be seriously harmed if intervention is denied, courts should be reluctant to dismiss such a request for intervention as untimely, even though they might deny the request if the intervention were merely permissive.”). Here, as discussed extensively above, the motion is unduly delayed and if it is too untimely for intervention as of right, it is surely too delayed for purposes of permissive intervention.

Moreover, undue delay or prejudice is present where granting the application for intervention would “clutter the action unnecessarily.” *Arney v. Finney*, 967 F.2d 418, 421–22 (10th Cir. 1992). If the UN were to be permitted into the case as a party and loses the proposed motion to dismiss it has filed, Plaintiffs will be forced to argue defamation claims against an institution that has nothing at all to do with its actual allegations, which are made against an individual Defendant, not the UN. The UN’s presence as a party would lead to a cascade of burdensome and unnecessary results, including discovery practice that would not reach the issues at hand. *Tri-State*,

787 F.3d at 1075. Allowing the UN to intervene as a party, while Defendant herself is already in default, would actually only protect Defendant from the consequences of her defamation.

Second, the UN argues it provides a perspective on immunity now absent from the record. However, as argued above, the UN's input on immunity can be more easily and cleanly be obtained through an amicus or letter to the court. There is no need for it to intervene in the case for purposes of filing an improper motion to dismiss, as the UN has no arguable interest or insight whatsoever beyond the immunity question. Should Plaintiffs win the UN's proposed motion to dismiss, there would be no cognizable reason why Plaintiffs should be arguing against the UN about defamatory statements made by Defendant. *Colony Ins. Co. v. Burke*, 698 F.3d 1222, 1239 (10th Cir. 2012) (“[E]ven an intervenor of right . . . does not have an unlimited right to participate in every aspect of the litigation.”). Therefore, for the very limited purpose of discussing immunity, there is no need for the UN to be entered into this case as a full party.

Third, as discussed above, where there is no independent interest, there is no inadequate representation. Defendant was perfectly and reasonably situated to mount her own defense, contest service, and bring a motion to dismiss. The UN inserting itself into this action as a party would needlessly clutter and confuse this matter while adding nothing of value to the overall proceedings. Indeed, in comparison, the UN has not intervened as a party in the case Defendant's husband and child have brought against the United States government to challenge the sanctions placed on Defendant currently pending in the D.C. Circuit; rather, the UN submitted a letter expressing its view on Defendant's immunity, and that was the end of its involvement. *Cali v. Trump*, No. 1:26-cv-00688-RJL, ECF 48 at 7 (D.D.C. May 13, 2026); *see also Cali v. Trump*, No. 26-5172, 2026

WL 1613422 (D.C. Cir. May 22, 2026) (staying order of district court enjoining the sanctions during the pendency of the action).

Fourth, there is no reason to consider whether an adequate alternative forum exists where the UN could pursue any claims or defenses, because there are no independent claims or defenses of the UN implicated by this lawsuit. Whether or not Defendant has a default judgment entered against her, or is found to be immune from suit, or any other disposition of this case, there is no follow up litigation the Proposed Intervenor would conceivably pursue on the underlying facts of the Complaint.

Conclusion

For the foregoing reasons, the Court should deny the UN's Motion to Intervene. If the Court wishes to hear the UN's views on immunity, Plaintiffs do not oppose the UN seeking leave to appear as amicus curiae, precisely as the UN did in *Cali* one month before filing this motion, on a schedule that does not disturb the Clerk's entry of default or delay the adjudication of Plaintiffs' damages. The UN does not need party status to be heard. It needs party status to undo a default its own counsel engineered. The Court should deny intervention and leave the default in place.

Dated: June 15, 2026

Respectfully submitted,

National Jewish Advocacy Center

/s/ Rachel Sebbag

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CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2026, I caused a true and correct copy of the foregoing to be filed with the Clerk of the Court using the CM/ECF system and to be served on Defendant by email and via the social media platform X in the manner authorized by the Court's May 14, 2026 Order, ECF 26.

/s/ Rachel Sebbag
Rachel Sebbag