

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

2026-P- 0566

IN RE INVESTIGATION)
BY THE OFFICE OF THE)
INSPECTOR GENERAL)

MOTION TO INTERVENE PURSUANT TO MASS. R. CIVIL PRO. 24

INTRODUCTION

In accordance with Mass. R. Civ. P. 24, Attorney Amy M. Belger, as appointed counsel for multiple clients whose rights are impacted by this action (“Counsel”), moves to intervene in this matter which involves a dispute between the Office of the Inspector General (“OIG”) and the Committee for Counsel Services (“CPCS”).

As set forth more fully below, Counsel claims an interest related to the subject matter of this action because she represents clients who are stakeholders in this action and whose privacy rights are impacted by this action. Counsel’s clients’ private and confidential personal information is being sought by the OIG from CPCS. Multiple clients represented by Counsel have affirmatively requested that she intervene on their behalf. Counsel represents individuals who have claims or questions in common with CPCS arising from this action.

Counsel is an experienced appellate attorney in this state, with nearly two decades of appellate representation of clients in the Commonwealth of Massachusetts. CPCS has sought direct appellate review of this matter, and Counsel seeks to intervene to protect the interests of the stakeholders she represents, at their request. Intervention here is appropriate and warranted by the applicable rules of procedure.

BACKGROUND

I. The December 5, 2025 OIG Motion to Compel

On December 5, 2025, the OIG filed a Motion to Compel Production of Material Pursuant to M.G.L. c. 12A, § 9. The OIG sought:

an Order compelling the Committee for Public Counsel Services ("CPCS") to produce certain material previously requested by the OIG pursuant to M.G.L. c. 12A, § 9. By order of the Legislature via Section 82 of Chapter 14 of the Acts of 2025, the OIG is currently conducting a review of certain CPCS operations, including an examination of the caseload of counsel representing indigent defendants.

The OIG went on to explain that “CPCS holds basic information essential to the OIG completing this review, including limited data related to defendants and assigned counsel.” The OIG asserts that back on November 13, 2025, the OIG “served CPCS via email with a letter seeking the production of certain information and records pursuant to M.G.L. c. 12A, § 9.” The information sought includes the “docket numbers and other case information” of indigent individuals who were provided attorneys through CPCS. The OIG asserts that CPCS has refused to provide the information sought without proposing “a viable solution.”

The OIG explains through its memorandum in support of its motion to compel that:

The OIG and CPCS met on September 17 and October 10, 2025. Shortly thereafter, the OIG made informal requests for certain records and information, with which CPCS has largely complied. Among the information the OIG is requesting from CPCS are docket numbers for each case "where (CPCS) counsel was requested and/or assigned" from January 1, 2023, until the present.

On November 3, 2025, CPCS General Counsel Lisa M. Hewitt issued a letter to the OIG outlining the "challenges CPCS faces with respect to complying with" the OIG's request and requesting additional meetings to "discuss how CPCS can provide [the OIG] with information the OIG needs in order to meet it [sic] obligation to conduct a fulsome investigation while being mindful of these other considerations."

The memo describes various additional communications between OIG and CPCS to resolve the dispute over the disclosure of the private and personal information of individuals that have received court appointed counsel due to their indigent status. The OIG then goes on to cite to Rules of Professional Conduct for Lawyers, as it alleges apply to CPCS, without regard for the fact that CPCS represents none of the stakeholders whose cases were assigned to members of the private bar, and whose information is in jeopardy of disclosure.

The OIG asserts that CPCS complying with its request "is not likely to be 'embarrassing or detrimental' to CPCS clients in any way", without recognition of the fact that the "clients" at issue are not all represented by CPCS but instead are mostly represented by members of the private bar. Furthermore, the OIG argues that because this is a request for information from one public state agency to another, it is taken out of the realm of cases cited in objection by CPCS to the request.

There has been no recognition by either party through their pleadings that the information that is at issue is the personal and private information of individual citizens whose interests are currently represented by no state agency or party at all.

II. The December 18, 2025 CPCS Opposition to the OIG's Motion to Compel

On December 18, 2025 CPCS filed its Opposition to the Inspector General's Motion to Compel Production of Material Pursuant to M. G. L. c. 12A, § 9, asserting that compliance with an Order granting the OIG's motion would force CPCS to "violate its ethical obligations to thousands of clients, as well as its obligations as a criminal justice agency under G. L. c. 6, § 167." CPCS forwards many arguments expounding upon the many ways in which docket number disclosure to the OIG would run afoul of its ethical obligations to clients, and yet it does not mention that the docket numbers of individuals who are not CPCS's clients, who are actually Counsel's clients, as well as clients of numerous additional members of the private bar, are also impacted.

Counsel, along with other members of the private bar who represent clients who are impacted by the Motion to Compel filed by the OIG and the Order that issued, were finally given notice of their right to move to intervene on April 29, 2026, three months after the superior court's Order on the Motion to Compel issued.

III. The January 27, 2026 Order on the OIG's Motion to Compel

On January 27, 2026 the court issued its Order on the OIG's Motion to Compel, ruling that although docket numbers do constitute confidential information,

G.L. c.12A, § 9, constitutes “other law” that supersedes the operation of Mass. R. Prof. C. Rule 1.6(a). CPCS filed a timely notice of appeal of that ruling.

IV. The April 29, 2026 Message from CPCS to the Private Bar

On April 29, 2026, CPCS, for the first time, communicated with the private bar about this litigation with the OIG. CPCS sent out a Message via email that outlined the significance of the client rights at stake. In that Message, CPCS informed the private bar that it had taken it upon itself, up until this point, to litigate a significant action that impacted the privacy rights of what CPCS labeled as “one or more of your clients.”

CPCS explained that it was seeking direct appellate review of the superior court’s Order. CPCS conveyed an obligation that falls on all members of the private bar to advise clients about this litigation, that has been ongoing for over six months, without client input or knowledge. CPCS advised the private bar that if they have clients who object to the disclosure of their docket numbers to the OIG, that they may have standing to intervene. Clearly, impact to an individual of this “disclosure” can only be understood on a case-by-case basis. Without elaborating further, CPCS noted in its Message that: “It is not possible for CPCS to know how this disclosure will impact your client, but it is conceivable that its impact could include, but not be limited to, their employment, housing or immigration status.”

ARGUMENT

Legal Standard for Intervention

Intervention is permitted as of right “when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.” Mass. R. Civ. P. 24(a)(2). See *Beacon Residential Mgmt., LP v. R.P.*, 477 Mass. 749, 752–53 (2017). In evaluating a motion for intervention, “the judge should take all well-pleaded, nonconclusory allegations in the motion to intervene, the proposed complaint or answer in intervention, and declarations supporting the motion as true absent sham, frivolity or other objections.” *Id.* (internal quotations and citations omitted).

Where intervention as of right is not appropriate, intervention may still be permitted pursuant to Mass. R. Civ. P. 24(b). Rule 24(b), upon timely application, permits intervention in an action by an applicant who has a claim or defense involving a question of law or fact in common with a claim or defense raised in the main action. The purpose of the rule is to “facilitate the disposal in one action of claims involving common questions of law or fact, thus avoiding both court congestion and undue delay and expense to all parties.” See Reporter’s Notes to Mass. R. Civ. Pro. Rule 24(b).

- I. **Counsel should be allowed to intervene as of right because Counsel has a substantial interest in the outcome of this matter as an attorney representing multiple court-appointed clients who have requested that she intervene on their behalf.**

The type and degree of interest that suffice for intervention depend on “the nature of the action in which intervention is claimed.” *Beacon Residential Mgmt., LP*, 477 Mass. at 753. Here, CPCS has informed the private bar that it will seek direct appellate review of the superior court’s ruling. The application for direct appellate review stage of this litigation makes Counsel’s intervention at this juncture uniquely timely.

Counsel’s clients have a right to have Counsel intervene on their behalf to ensure that their interests as stakeholders are adequately represented; they need not rely on or accept CPCS’s representation of those interests when they have Counsel, who is their lawyer, that they can rely on to do so. Counsel has unique expertise and understanding of this subject matter as an experienced appellate practitioner in the Commonwealth.

“An applicant for intervention as of right has the burden of showing that representation may be inadequate, although the burden ‘should be treated as minimal.’” *Frostar Corp. v. Malloy*, 77 Mass. App. Ct. 705, 712, (2010) (quoting *United States Postal Service v. Brennan*, 579 F.2d 188, 191 (2d Cir.1978). “[T]he intervenor need only offer ‘an adequate explanation as to why’ it is not sufficiently represented by the named party. One way for the intervenor to show inadequate representation is to demonstrate that its interests are sufficiently different in kind or degree from those of the named party.” *B. Fernandez & Hnos., Inc. v. Kellogg USA, Inc.*, 440 F.3d 541, 546 (1st Cir. 2006).

CPCS's institutional perspective as the Defendant is somewhat different than that of Counsel's individual clients. CPCS is the state public defender agency that provides counsel to indigent criminal defendants with a strong interest in protecting the constitutional rights of defendants in active criminal proceedings. Counsel is an attorney who gets appointed by CPCS to represent indigent individuals in criminal proceedings.

There is no assurance that CPCS, a state agency, who has never met any of Counsel's clients, and does not represent them, can forward every argument and issue that arises from the significant violation of privacy attendant to the disclosure of the personal confidential information sought by the OIG and as ordered by the superior court.

As a lawyer who currently represents stakeholder clients whose constitutional rights are impacted by this action, whose clients have a personal interest in the outcome of this action, and want to make sure that their individual rights and interests are adequately brought before the Court in the course of the litigation of this action, Counsel meets the legal standard for intervention. The Court should therefore allow Counsel to intervene on behalf of her stakeholder clients as a matter of right.

II. If the Court does not find that the legal standard has been met for intervention as of right, then permissive intervention should be granted.

Counsel should be permitted to intervene in this action because she is an attorney who represents multiple clients who have issues of fact in common with the

Defendant regarding the disclosure of confidential and personal client information. Allowing Counsel to intervene in this case will promote judicial economy and avoid a situation where common issues may need to be addressed in piecemeal form. One cohesive action that ensures that the interests of CPCS and the interests of Counsel's individual stakeholder clients are fully represented and advocated promotes the public interest and systemic interest in judicial economy. Accordingly, this motion also meets the Rule 24(b) goals of permissive intervention.

CONCLUSION

For all of the foregoing reasons, this Court should allow Counsel's Motion to Intervene Pursuant to Mass. R. Civil Pro. 24.

Respectfully submitted,

[Amy M. Belger](#)

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CERTIFICATION OF SERVICE

I, Amy M. Belger, hereby certify that I have this day, May 7, 2026, served the foregoing Motion upon the plaintiff and the defendant by emailing a copy to:

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