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9
10 IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 GERALDINE L. FIANAGAN, et al.,
12 Plaintiffs,
13 vs.
14 UNITED STATES OF AMERICA,
15 Defendant.

CIVIL ACTION NO. 74-808-PH

16 IN RE:
17 PARIS AIR CRASH DISASTER
18 MARCH 3, 1974

M.D.L. NO. 172

HONORABLE PEIRSON M. HALL

19
20 OPPOSITION TO MOTION TO INTERVENE
21 AS AMICUS CURIAE

22 NOW COMES HERBERT L. LYONS and in Opposition to the Motion
23 to Intervene as Amicus Curiae filed by Rodney F. Stitch, states
24 as follows:

25 I.

26 THE MOTION SHOULD BE DENIED FOR FAILURE TO COMPLY
27 WITH THE LOCAL RULES OF THE CENTRAL DISTRICT OF CALIFORNIA

28 Local Rule 3(e) (2) requires:

29 2. Content of Papers Filed:

30 There shall be served and filed with the notice of
31 motion or other application and as a part thereof (a)
32 copies of all photographs and documentary evidence which

1 the moving party intends to submit in support of
2 the motion or other application, in addition to the
3 affidavits required or permitted by Rule 6(d), FR
4 Civ P and (b) a brief, but complete written statement
5 of all reasons in support thereof, together with a
6 memorandum of the points and authorities upon which
7 the moving party will rely.

8
9 In the Stitch application Local Rule 3 (e)(2) has not been
10 complied with in several respects. First, Stitch has failed to
11 supply copies of all documentary evidence which he allegedly in-
12 tends to rely on in support of his motion. Stitch made several
13 statements such as in paragraphs 5 and 6 to the effect that he
14 has supplied data in another case,^{*/} or that he " . . . can submit
15 data and is capable of ferreting out during discovery additional
16 supporting data . . ." The fact is that he has submitted no
17 exhibits and the like in support of his motion, as required by
18 Local Rule 3(e)(2). All that is submitted is the motion, con-
19 taining certain inflammatory and untrue charges which should not
20 be dignified by this Honorable Court.

21
22 */ The reference in the Stitch motion in paragraph 3 to having
23 filed a civil action in the United States District Court, action
24 C-74-982 (sic) RHS relates to a matter recently decided in the
25 District Court for the Northern District of California by the
26 Honorable Robert H. Schnecke (attached as Exhibit A). Mr. Stitch
27 was terminated from employment by the Federal Aviation Administra-
28 tion in 1967 and he filed the civil action referred to in May, 1974
29 to obtain back pay and reinstatement. In February of this year
30 the District Court dismissed the suit. The Stitch application herein
31 appears to be nothing more than scandalmongering by an ex-employee
32 whose appeals have been rejected by the Civil Service Commission and
the Judiciary.

1 Second, Local Rule 3(e)(2) refers to affidavits in support
2 of motions. Stitch has not made his charges in an affidavit.

3 Third, Local Rule 3(e)(2) requires that motions be accompanied
4 by a " . . . a brief, but complete written statement of all reasons
5 in support thereof, together with a memorandum of the points and
6 authorities upon which the moving party will rely." Stitch has
7 not submitted a complete written statement of all reasons in sup-
8 port of his motion, nor has Stitch submitted a memorandum of
9 points and authorities upon which he relies.

10 Fourth, Local Rule 5(b) provides quite clearly the manner of
11 services and how the proof of service is to be shown. Stitch's
12 assertion in paragraph 10 of his motion does not comply with any
13 of the Local Rule 5(b) requirements.

14 Pursuant to Local Rule 1.9 a person representing himself
15 without an attorney is bound by the Rules of the Court, and failure
16 to comply therewith may be grounds for dismissal or judgment by
17 default.

18 II.

19 THE MOTION SHOULD BE DENIED
20 SINCE STITCH HAS NO STANDING

21 The movant states that he wants to intervene as amicus curiae
22 for the purpose of filing a brief in support of plaintiffs, not
23 the Court. As such, the movant does not qualify for amicus curiae.
24 A friend of the Court is a friend of the Court, not a litigant.

25 III.

26 THE MOTION SHOULD BE DENIED DUE TO
27 THE PRESENT STATUS OF THE LITIGATION

28 The granting of the motion would merely delay litigation and
29 settlement of the claims arising out of the DC-10 crash. As the
30 Court stated in its Order of August 1, 1974, this is an Aegeonic
31 case and to grant Stitch's motion would add another brother with 100/
32

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1 arns and 50 more heads, all taking more of the Court's time on an
2 already heavy schedule.

3 WHEREFORE, Defendant, UNITED STATES OF AMERICA, submits that
4 the Stitch application be denied.

5 WILLIAM D. KELLER
6 United States Attorney

7 JAMES R. DOOLEY
8 Assistant U.S. Attorney

9 By: *Herbert L. Lyons*
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13 Attorneys for United
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15 MEMORANDUM IN SUPPORT OF OPPOSITION
16 TO THE MOTION TO INTERVENE AS AMICUS
17 CURIAE FILED BY RODNEY F. STITCH

18 TABLE OF CASES

19 <u>Case</u>	20 <u>Page No.</u>
21 <u>Clark v. Sandusky</u> , 205 F.2d 915 (7th Cir., 1953)	22 4 and 5
23 <u>Moffat Tunnel Improvement District v. Denver &</u> 24 <u>S.L. Ry. Co.</u> , 45 F.2d 715 (10th Cir., 1930)	25 5
26 <u>R.C. Tway Coal Co. v. Glenn</u> , 12 F. Supp. 570 27 (W.D. Ky., 1935), aff'd. in part and rev. in 28 part 298 U.S. 238, 80 L.Ed. 1160, 56 S. Ct. 855	29 5

30 An amicus curiae is defined in Black's as "a friend of the
31 Court". Mr. Stitch, however, does not seek to intervene as a
32 friend of the Court, but rather as a friend of the plaintiffs
and as such his motion should be denied. Clark v. Sandusky, 205
F.2d 915 (7th Cir., 1953). Further, even Mr. Stitch admits in
paragraph 9 of his motion that certain attorneys representing the
plaintiffs will oppose this intervention. Mr. Stitch has no
standing to be present in this litigation as a friend of the Court
or as a friend of any plaintiff, who even he admits probably will

1 not want him acting for them. No one associated with this case
2 can dispute the high caliber of plaintiffs' counsel nor that of the
3 Court in handling this massive litigation. To grant Mr. Stitch's
4 motion would merely help to delay the litigation and settlement
5 thereof. Mr. Stitch has made no claim for relief and indeed has
6 no standing in the lawsuit.

7 Paragraph 6 of the Stitch motion makes reference to submitting
8 data and ferreting out additional supporting data. It is difficult
9 to comprehend that the counsel involved in this litigation are not
10 fully competent to obtain all data and to ferret any additional
11 data. Moreover, new issues may not be introduced by an amicus
12 curiae. Moffat Tunnel Improvement District v. Denver & S.L. Ry.
13 Co., 45 F.2d 715 (19th Cir., 1930). Such friends of the Court
14 must take the record as they find it, and lack of good faith, as
15 alleged by the Stitch motion, on the part of the litigants cannot
16 be raised by an amicus curiae. R.C. Tway Coal Co. v. Glenn,
17 12 F. Supp. 570 (W.D. Ky., 1935), aff'd. in part and rev. in part
18 298 U.S. 238, 80 L. Ed. 1160, 56 S. Ct. 855.

19 Mr. Stitch's fallacious, inflammatory and unfounded accusations
20 have no place in this lawsuit where things have progressed to the
21 hopeful point of resolving all the issues. The motion should be
22 denied by this Honorable Court. Such a denial lies wholly within
23 the discretion of the Court and is not reviewable upon appeal.
24 Clark v. Sandusky, supra.

25 As pointed out in the Opposition to the Motion to Intervene
26 as Amicus Curiae, the motion is defective in that it does not comply
27 with Local Rules of the Central District of California. On that
28 basis alone it should be denied.

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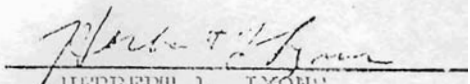
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30 CERTIFICATE OF SERVICE

31 I HEREBY CERTIFY that a true and correct copy of the
32 Opposition to Motion to Intervene as
foregoing Amicus Curiae and Supporting was mailed this 13th day
Memorandum
of Aug. , 1975 :


HERBERT L. LYONS