



Mr. Brown’s motion consists of the allegation that he “has been personally victimized by the unlawful surveillance of the U.S. Government,” and attaches documents that appear to reference a 1998 court-ordered pen register—activity that predates the alleged programs challenged in this matter. *See* Brown Mot. at 3-4.

Rule 24(a) and (b) “both require that a motion to intervene be timely filed, and the Court considers ‘time elapsed since the inception of the suit, the purpose for which intervention is sought, the need for intervention as a means of preserving the applicant’s rights, and the probability of prejudice to those already parties in the case.’” *Kifafi v. Hilton Hotel Ret. Plan*, 2004 WL 3619156, at \*6 (D.D.C. Sept. 27, 2004) (quoting *Smoke v. Norton*, 252 F.3d 468, 471 (D.C. Cir. 2001)).<sup>2</sup> Permissive intervention under Rule 24(b)(1)(A)—the more likely putative basis for the instant motion—may apply to movants who have “a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(A).

The aforementioned factors weigh heavily against permitting Mr. Brown to intervene in this case. He waited nine months to file his motion, does not articulate a single reason why intervention is appropriate, and alleges harm that occurred over fifteen years ago, unconnected to any activity being challenged in the instant cases. Relatedly, because his one-sentence allegation does not share a “common question of law or fact” with the claims raised in these actions and, in any event, is not supported by any independent jurisdictional basis, Mr. Brown is not eligible for permissive intervention under Rule 24(b)(1)(A). *See EEOC v. Nat’l Children’s Ctr., Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998). Finally, Mr. Brown’s motion is not accompanied by a pleading, as required by Rule 24(c). For all these reasons, his motion should be denied.

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<sup>2</sup> Mr. Brown has not identified any statute that provides him an unconditional or conditional right to intervene in this action, *see* Fed. R. Civ. P. 24(a)(1), (b)(1), and counsel for the Government Defendants are aware of none.

Dated: March 24, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of March, 2014, I did cause true and correct copies of the foregoing instrument, Government Defendants' Opposition to Motion to Intervene Filed by Timothy Demitri Brown to be electronically filed using the CM/ECF system for the United States District Court for the District of Columbia and served by U.S. mail on the following person:

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