

U.S. DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

06 FEB 15 09:41

STEVEN A. AVERY

Plaintiff,

OFFICE OF COUNTY CLERK

Civil Action Case No.: 04 CV 0986

vs.

MANITOWOC COUNTY, THOMAS K.  
KOCOUREK, individually and in his official  
capacity as Sheriff of Manitowoc County, and  
DENIS R. VOGEL, individually with respect only  
to his executive, administrative and advice and  
counsel functions and in his official capacity as  
District Attorney of Manitowoc County

Defendants.

**MOTION TO INTERVENE**  
**UNDER F.R.C.P. 24**

NOW COMES State Farm Fire and Casualty Company, pursuant to Federal Rule of Civil Procedure 24, and moves the court for leave to intervene in this action so that the court can make a judicial declaration as to whether it has a duty to defend and indemnify Thomas K. Kocourek in this action. At the time of the criminal action which is the subject of this case, Thomas K. Kocourek had a homeowner's insurance policy with State Farm. Thomas K. Kocourek tendered the case to State Farm, asking it to pay for his defense and to pay any damages that may be awarded. State Farm denies that it's homeowner's policy applies to this case.

State Farm's potential coverage obligations give it a direct and legally protectable interest in this case. State Farm's proposed complaint for declaratory judgment

accompanies this Motion and sets forth its policy defenses. A copy of the homeowner's policy is attached to the complaint for declaratory judgment.

It is necessary for State Farm to intervene in this case because no existing party adequately represents State Farm's interest in the coverage dispute.

WHEREFORE, State Farm respectfully asks that the court grant its motion to intervene, accept its complaint for declaratory judgment, and issue a judicial determination of its obligations to Thomas K. Kocourek under the policy.

Dated at Appleton, Wisconsin, this 14 day of February, 2006.

**MENN LAW FIRM, LTD.**

By: Jane Kirkeide  
Jane L. Kirkeide  
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STATE FARM INSURANCE COMPANY

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