

## Civil Procedure

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## Review Problem: Joinder

Mrs. Claypool (a citizen of Pennsylvania), an aspiring society matron, hires Otis Driftwood (a citizen of NY) to act as her publicity agent. Driftwood arranges for Mrs. Claypool to meet Herman Gottlieb (a citizen of NY), director of the New York Opera Company, who is seeking a patron. Mrs. Claypool agrees to donate \$500,000 to the Opera Company, so that it can hire Rodolfo Lassparri (a citizen of NY), the greatest tenor in the world. In exchange, Gottlieb agrees to name the Opera House after Mrs. Claypool.

Driftwood goes to meet Lassparri, intending to sign him to a contract. Along the way, he meets Fiorello (a citizen of NY), a genial con artist, who tricks Driftwood into signing Lassparri's rival, Baroni (a citizen of NY), instead. When Gottlieb discovers what has happened, he reneges on his agreement to name the Opera House.

A furious Mrs. Claypool sues Gottlieb for breach of contract and promissory estoppel, seeking restitution of the \$500,000 she donated to the Opera Company. She also sues Driftwood for breach of contract and fraud, seeking restitution of the \$50,000 she paid Driftwood under their contract, and an additional \$50,000 in punitive damages on the fraud claim. Mrs. Claypool brings her suit in federal court.

### Part A

Is joinder of Gottlieb and Driftwood as defendants proper under the FRCP, and does the federal court have subject matter jurisdiction over the claims?

### Part B

For each of the following additional claims, explain whether joinder is proper under the FRCP and whether the federal court would have subject matter jurisdiction:

1. A claim by Driftwood against Mrs. Claypool for breach of contract, seeking \$25,000 he contends she still owes him for his services under their contract.
2. A claim by Driftwood against Mrs. Claypool for battery, alleging that she poured a bowl of hot soup over his head when he clumsily attempted to woo her during a party to celebrate the ill-fated Opera deal. Driftwood seeks \$1020 in damages for the battery claim (\$500 for the cost of an emergency room visit to have the burns on his face treated, \$20 for the cost of having his suit dry cleaned, and \$500 for pain and suffering).
3. A claim by Gottlieb against Driftwood, seeking indemnification and contribution on Mrs. Claypool's breach of contract claim against Gottlieb.
4. A claim by Gottlieb against Driftwood, alleging that the Opera Company lost 50% of its anticipated season ticket sales because of the failure to sign Lassparri.

5. A claim by Gottlieb against Driftwood for breach of contract in an unrelated business transaction in which Driftwood was to supply the Opera Company with costumes.
6. A claim by Driftwood against Fiorello and Baroni seeking indemnification and contribution from each on Mrs. Claypool's breach of contract and fraud claims against Driftwood.
7. A claim by Driftwood against Fiorello and Baroni, jointly and severally, seeking \$25,000 in damages for defrauding him into signing Baroni to the Opera contract.
8. A claim by Baroni against Driftwood for failure to pay Baroni in accordance with the contract that Driftwood signed.
9. A claim by Fiorello against Baroni, seeking \$10,000 in the unpaid commission that Fiorello was to receive as Baroni's agent in signing him to a contract with the Opera.
10. A claim by Baroni against Mrs. Claypool for defamation, based on her statement to the press that, "This Baroni has a voice like a sick frog and isn't fit to wash Lassparri's socks."
11. A claim by Mrs. Claypool against Baroni for battery, based on his pelting her with rotten tomatoes in retaliation for her statement.