

A doctor from State B performed surgery on a man from State A and implanted a device in the man's lower spine. The device was manufactured by a corporation incorporated and with its principal place of business in State C. Following the surgery, the device fell apart inside the man's back and caused him to suffer severe injuries.

The man sued the corporation in a federal district court in State B for \$250,000. The corporation filed a pre-answer motion to dismiss the man's suit for failing to join the doctor as a required party. The corporation claimed that the doctor improperly installed the device and, therefore, is jointly and severally liable for the man's injuries.

Will the court likely grant the corporation's motion to dismiss?

- A. No, because the corporation must file an answer before it can make this motion.
- B. No, because the doctor is not a required party to the suit.
- C. Yes, because it is inequitable to proceed without the doctor.
- D. Yes, because joining the doctor to the suit is not feasible.

Explanation:

Under Federal Rule of Civil Procedure (FRCP) 19, an absent party *must* be joined (ie, added) to a suit in certain circumstances. This **required-joinder rule** provides a three-step process for determining whether joinder is necessary. The **first step** requires the court to determine whether the **absent party** is a **required** (ie, indispensable) party because:

- **complete relief cannot be granted** to the existing parties without that party's presence
- the party's absence will subject existing parties to a substantial risk of **multiple or inconsistent obligations** *or*
- the party's absence will **prejudice** his/her **ability to protect an interest** related to the suit.

Potential tortfeasors facing joint and several liability are *not* required parties. Joint and several liability allows a plaintiff to obtain complete relief from any one of the tortfeasors. That tortfeasor is not subject to multiple or inconsistent obligations because the tortfeasor may sue any absent tortfeasor for contribution. The absent tortfeasor can then protect its interests in the contribution suit. As a result, the doctor is not a required party in the man's suit, and the court will likely deny the corporation's motion to dismiss.*

*If the corporation seeks to add the doctor because he is allegedly liable to the corporation for all or part of the man's claim, it should add the doctor to the suit through [third-party practice](#) (ie, impleader).

(Choice A) [FRCP 12](#) allows a defendant to make several motions before filing his/her answer—including a motion to dismiss for failing to join a required party (as seen here).

(Choices C & D) The second step in the required-joinder rule considers whether it is feasible to join the required party, and the third step considers whether it is equitable to proceed without the required party. However, these steps need only be considered if the absent party is a required party (not seen here).

Educational objective:

Alleged tortfeasors facing joint and several liability are not required parties because (1) complete relief can be granted in their absence, (2) the tortfeasors in the suit will not be subjected to multiple or inconsistent obligations, and (3) the absent tortfeasors can adequately protect their interests in a future action.

References

- Fed. R. Civ. P. 19 (required joinder of parties).
- *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7–8 (1990) (explaining that joint tortfeasors are not required parties).

Required joinder of parties (FRCP 19)

