

A woman bought a piece of farmland in the state where she resides. Three years after this purchase, a man informed her that he held a mortgage against the farmland and that she must pay him.

The woman then filed a quiet title action in an appropriate federal court in the state where the farmland is located. The man was properly served with the complaint and summons.

The day after receiving the complaint and summons, the man called the woman and informed her that he co-owns the mortgage on the farmland with his brother. Both the man and his brother live in another state.

What is the easiest action the woman can take to join the man's brother in the suit?

- A. File a motion for compulsory joinder.
- B. Immediately file and serve an amended complaint listing both siblings as defendants.
- C. Move the court for permission to join the other sibling.
- D. Voluntarily dismiss the case and refile a complaint naming both siblings as defendants.

Explanation:

Under Federal Rule of Civil Procedure (FRCP) 19, a person must be **joined** as a party to a lawsuit in certain situations. Here, for example, the brother is likely a required party in the woman's quiet title action since his absence could prejudice his mortgage interest. And though the woman failed to name him in her complaint, FRCP 15 allows a party to **amend a pleading** once as a **matter of course**—ie, without the court's permission or the opposing party's written consent. But this must be done **within 21 days after**:

- **serving that pleading** if a responsive pleading is *not* required *or*
- **being served with a responsive pleading or FRCP 12 motion** (whichever occurs first) if a responsive pleading *is* required.

A defendant is required to file and serve an answer in response to the plaintiff's complaint. And since the man has not yet filed an answer (or FRCP 12 motion), the woman can amend her complaint without the court's permission or the man's written consent **(Choice C)**. Therefore, the easiest way the woman can join the brother in the suit is to immediately file and serve an amended complaint listing both siblings as defendants.

(Choice A) Compulsory (ie, required) joinder makes it mandatory to include all necessary parties in a lawsuit—eg, co-owners of property in a quiet title action. Therefore, a *defendant* would file a motion for compulsory joinder to add any necessary parties, while a *plaintiff* would simply amend the complaint (as seen here).

(Choice D) A plaintiff may voluntarily dismiss a suit if the plaintiff wants to file it in a different court or has reached a settlement with the defendant. But the plaintiff need not dismiss a complaint to add another party.

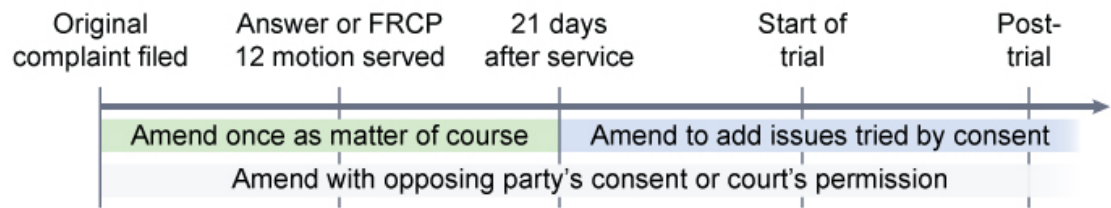
Educational objective:

A party can amend a pleading once as a matter of course within 21 days (1) after serving that pleading *or* (2) if a responsive pleading is required, after being served with a responsive pleading or motion under Federal Rule of Civil Procedure 12.

References

- Fed. R. Civ. P. 15(a) (amending complaint before trial).
- Fed. R. Civ. P. 19 (required joinder of parties).

Amending pleadings (FRCP 15)



FRCP = Federal Rule of Civil Procedure

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