

On March 1, 2017, a woman tripped and fell on a cruise ship, sustaining severe injuries. On February 28, 2018, she brought a diversity action in federal court against the entity she believed owned the cruise ship. The entity was served with process the same day. The entity immediately forwarded the complaint to the office of legal counsel for the corporation that owned the cruise ship.

Two weeks later, the entity filed and served its answer in which it denied ownership of the cruise ship. The entity explained that it was merely a ticketing agency with a name similar to the corporation that owned the ship.

The next day, the woman amended her complaint to substitute the corporation that owned the cruise ship as the defendant and had process served on the corporation. The corporation immediately moved to dismiss the suit, arguing that the statute of limitations had expired.

The applicable statute of limitations for the claim is one year from the date the accident allegedly occurred. The law establishing this statute of limitations does not mention relation back.

Should the court grant the corporation's motion to dismiss?

- A. No, because the amended complaint relates back to the date the original complaint was filed.
- B. No, because the woman may freely amend her complaint once as a matter of course.
- C. Yes, because the amended complaint was filed after the statute of limitations expired.
- D. Yes, because the applicable law does not mention relation back.

## Explanation:

An **amended complaint** filed **after** the statute of limitations has expired is prohibited unless the **relation-back doctrine** applies. This doctrine treats the amended complaint as if it were filed on the same date as the original complaint. An amendment that **changes a defendant** "relates back" only if the statute of limitations allows (not seen here) OR when:

- the amendment concerns the **same transaction or occurrence** as the original complaint
- the new party **received notice** of the suit **within 90 days** after the original complaint was filed *and*
- the new party **knew or should have known** that the **suit would have been brought** against it but for a mistake concerning the proper party's identity.

Here, the woman's amended complaint concerns the same cruise ship accident. The corporation that owns the cruise ship received notice when the ticketing agency forwarded the complaint. And the corporation should have known that the suit would have been brought against it but for the woman's mistake about its identity. As a result, the amendment relates back to the date the original complaint was filed on February 28, 2018—*before* the statute of limitations expired. Therefore, the corporation's motion to dismiss should be denied (**Choices C & D**).

**(Choice B)** A party may **amend** its complaint once as a matter of course—ie, without the court's permission or the opposing party's written consent—within 21 days after being served with an answer. But the amendment must be filed (or relate back to an original pleading filed) before the statute of limitations expires.

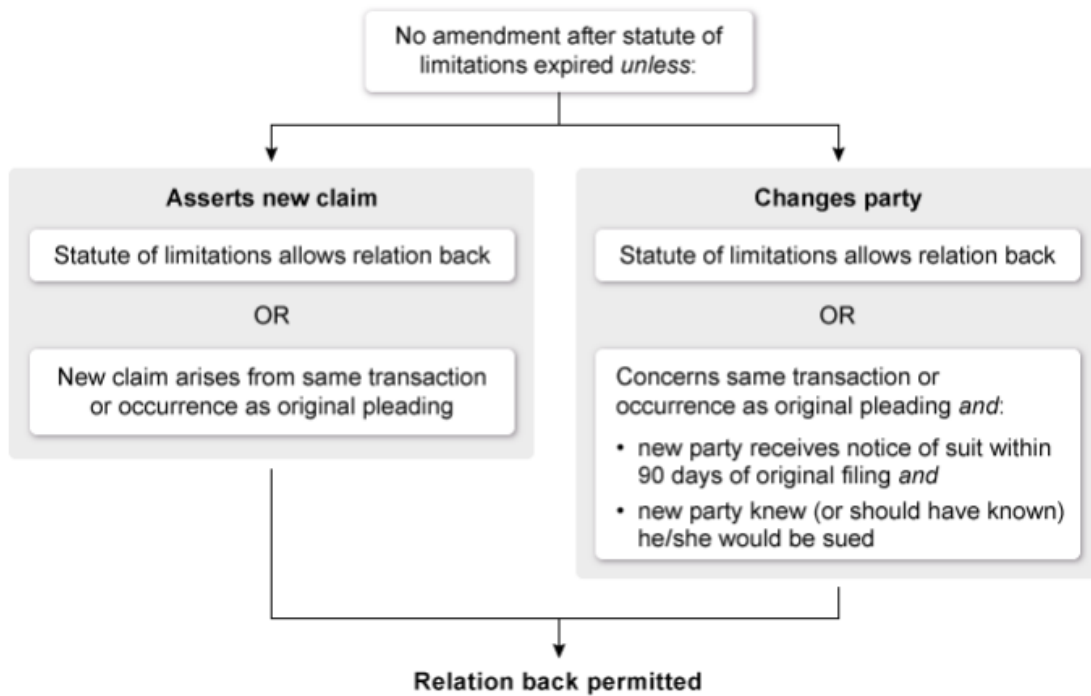
## Educational objective:

An amended complaint will "relate back" to the date of the original complaint if (1) the same occurrence is at issue, (2) the new party received notice of the suit within 90 days after the original complaint was filed, and (3) the new party knew or should have known the suit would have been brought but for a mistake about its identity.

## References

- Fed. R. Civ. P. 15(c) (relation back of amended pleadings).
- *Krupski v. Costa Crociere S.p.A*, 560 U.S. 538, 557 (2010) (holding that the relation-back doctrine applies when a company should have known that it would have been sued had the plaintiff not made a mistake).

## Relation-back doctrine (FRCP 15(c))



FRCP = Federal Rule of Civil Procedure.

©UWorld