

A woman from State A contracted with a builder from State B to construct her new home in State A for \$500,000. The builder ordered all the necessary materials, including drywall, and built the home to the woman's specifications.

After one year, the drywall throughout the home began to crumble and give off an awful odor. The home became uninhabitable. The woman sued the builder for breach of contract in a federal district court in State A. The builder believes that the drywall supplier from State B should reimburse him for any damages he may owe the woman. The builder has yet to file his answer.

What is the most efficient action the builder can take to seek reimbursement from the supplier?

- A. File a crossclaim against the supplier.
- B. File a motion to join the supplier as an indispensable party.
- C. File a separate lawsuit against the supplier.
- D. File a third-party complaint against the supplier.

Explanation:

Ways to add parties

Required joinder	Requires addition of necessary party to suit
Permissive joinder	Allows addition of nonessential party to suit
Intervention	Allows nonparty whose interests may be affected to join suit
Impleader	Allows defendant to add nonparty who may be liable to defendant for all or part of asserted claim to suit
Interpleader	Allows possessor of property to force persons who claim ownership of property to resolve dispute in single suit
Class action	Allows party to represent interests of entire class of similarly situated individuals

Impleader (ie, third-party practice) allows a defendant to **add a nonparty** to a suit who may be **liable to the defendant** for all or part of the plaintiff's claim. This means that the nonparty would reimburse the defendant for any damages paid to the plaintiff. To initiate impleader, the defendant can file a **third-party complaint** (1) within **14 days of serving** his/her **original answer** or (2) after this deadline **with the court's permission**.

Here, impleader is appropriate since the builder (defendant) believes that the supplier (nonparty) should reimburse the builder for any damages he may owe the woman (plaintiff) in the pending suit. Since the builder has not yet filed an answer, the court's permission is not required. Therefore, the most efficient way for the builder to seek reimbursement is to file a third-party complaint against the supplier.

(Choice A) A **crossclaim** is a claim for relief asserted against a *coparty*—eg, a defendant against a codefendant. But here, the builder seeks relief from the supplier—a *nonparty*. As a result, the builder cannot file a crossclaim to obtain relief from the supplier.

(Choice B) The supplier is not an **indispensable party** and should not be joined as such. That is because the supplier's absence will not (1) prevent the existing parties from obtaining complete relief, (2) prejudice the supplier's interest, or (3) subject an existing party to multiple or inconsistent obligations.

(Choice C) The builder could file a separate lawsuit against the supplier. But since this would be more costly and time-consuming than filing a third-party complaint in the pending action, it is not the most *efficient* way for the builder to seek reimbursement.

Educational objective:

A defendant may add a nonparty to a suit by filing a third-party complaint alleging that the nonparty is liable to the defendant for all or part of the plaintiff's claim. The defendant need only obtain the court's leave if more than 14 days have passed since the defendant served his/her original answer.

References

- Fed. R. Civ. P. 14 (third-party practice).

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