

Two women filed a joint complaint in federal court against their employer for allegedly violating a federal law that prohibits workplace discrimination against pregnant women.

The complaint alleged that the women applied for promotion to two, newly opened supervisor positions when they were six and seven months pregnant, respectively. The women claimed that their employer told each of them separately that he was denying them the promotion because they would miss work as a result of their pregnancies. The complaint also alleged that the women were fired from their positions shortly after these meetings. One woman seeks to be reinstated to her former position, while the other woman requests \$100,000 in damages.

The employer denied these allegations and filed a motion asking the court to sever the women's claims.

How will the court likely rule on the employer's motion?

- A. Deny the motion, because the women are required parties to the lawsuit.
- B. Deny the motion, because the women's claims arise out of the same series of occurrences and share common questions of law and fact.
- C. Grant the motion, because the women requested different relief.
- D. Grant the motion, because trying both women's claims together would prejudice the employer.

## Explanation:

### Joinder of parties

**Compulsory joinder** Person *must* be joined in lawsuit—provided subject matter jurisdiction is preserved—if absence will:

- (FRCP 19)
- prevent court from granting complete relief to existing parties
  - prejudice absent person's interest *or*
  - subject existing party to multiple or inconsistent obligations

**Permissive joinder** Person *may* be joined in lawsuit if:

- (FRCP 20)
- claims by or against person arise out of same transaction/occurrence *and*
  - common question of fact or law will arise

**FRCP** = Federal Rules of Civil Procedure.

The employer's motion to sever the women's complaint should be granted if their claims regarding workplace discrimination were improperly joined. Under Federal Rule of Civil Procedure (FRCP) 20—the **permissive joinder** rule—**multiple persons may be joined as plaintiffs** or defendants in the **same suit** if:

- the claims asserted by or against the joined parties **arise out of the same** transaction, occurrence, or **series of transactions or occurrences** *and*
- the action will involve a **common question of law or fact** among all joined parties.

Here, the claims asserted by both women stem from their mutual employer's alleged discrimination (same series of occurrences). Their claims are based on the same federal statute (common question of law) and the same allegation that they were denied a promotion and fired because they were pregnant (common question of fact). Therefore, the women were properly joined as plaintiffs, and the employer's motion to sever will likely be denied.

**(Choice A)** The women are *not* required parties to the lawsuit under FRCP 19. This is because the women could separately sue the employer without (1) preventing the court from granting them complete relief, (2) prejudicing the absent woman's interest, or (3) subjecting the parties to multiple or inconsistent obligations.

**(Choice C)** Parties need not seek (or defend against) the same relief to be joined. Therefore, the fact that the women requested different relief is not a basis for severing their joint complaint.

**(Choice D)** FRCP 20(b) allows a judge to take protective measures (eg, ordering separate trials) when the joinder of parties would cause an opposing party embarrassment, delay,

expense, or other prejudice. But this can only be done when the claims by or against the joined parties do not concern the opposing party (not seen here).

**Educational objective:**

Permissive joinder of parties is appropriate when (1) the claims asserted by or against the joined parties arise from the same transaction, occurrence, or series thereof and (2) a common question of law or fact will arise among them.

**References**

- Fed. R. Civ. P. 20 (permissive joinder of parties).

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