

A plaintiff domiciled in State A sued a defendant domiciled in State B, alleging that the defendant had failed to deliver products to the plaintiff under an ongoing contract. The plaintiff attached to the complaint an invoice for the products marked "paid" and a receipt for a wire transfer to the defendant in the amount of \$80,000. The defendant answered the complaint, denying that the plaintiff had suffered any losses and asserting a counterclaim for nonpayment of \$90,000 for an earlier delivery of products.

In response to the counterclaim, the plaintiff has moved for judgment on the pleadings.

How is the court likely to rule?

- A. Deny the motion as premature, because the plaintiff has not yet answered the counterclaim.
- B. Deny the motion, because a plaintiff that attaches items to the complaint cannot move for judgment on the pleadings.
- C. Grant the motion, because the defendant failed to cross-move.
- D. Grant the motion, because the defendant has not denied that it failed to deliver products after payment by the plaintiff.

Correct

Collecting Statistics

01 min, 51 secsTime Spent

2023Version

Explanation:

Pretrial motions

Motion	Grounds
Default judgment	Defendant failed to timely serve answer Any party failed to comply with court order
Pre-answer	No subject-matter or personal jurisdiction Improper venue Insufficient process or service of process Failure to join required party Failure to state claim upon which relief can be granted
Judgment on the pleadings	Pleadings, attached exhibits & matters of public record show (1) no genuine dispute of material fact & (2) movant entitled to judgment as a matter of law
Voluntary dismissal	Plaintiff requests dismissal
Involuntary dismissal	Defendant requests dismissal because plaintiff failed to (1) prosecute action or (2) comply with rule/court order
Summary judgment	Pleadings, affidavits, declarations, discovery & other materials show (1) no genuine dispute of material fact & (2) movant entitled to judgment as a matter of law

A party may **move for judgment on the pleadings** to dismiss a claim **after the pleadings have closed**. The pleadings close once all required pleadings have been filed. This typically occurs once the plaintiff's complaint and the defendant's answer have been filed. However, when a **party asserts a counterclaim**, crossclaim, or third-party claim, the **pleadings do not close until an answer to that claim** has been **filed**.

Here, the defendant asserted a counterclaim in its answer to the plaintiff's complaint. The plaintiff has not yet answered the counterclaim, so the pleadings have not closed. As a result, the court will likely deny the plaintiff's motion for judgment on the pleadings as premature.

(Choice B) In a motion for judgment on the pleadings, a court may consider matters of public record and the contents of the pleadings—including attached exhibits. Therefore, the fact that the plaintiff attached an invoice and a receipt to the complaint does not preclude the plaintiff from moving for judgment on the pleadings.

(Choice C) A defendant may, but is not required to, file a cross-motion for judgment on the pleadings in response to the plaintiff's motion for judgment on the pleadings. But the defendant may choose to defend against the plaintiff's motion rather than file its own motion.

(Choice D) A court can enter judgment on the pleadings when the movant shows that (1) there is no genuine issue of material fact and (2) the movant is entitled to judgment as a matter of law. The fact that the defendant has not denied that it failed to deliver products after the plaintiff's payment may show that the plaintiff is entitled to judgment as a matter of law. However, the court will not consider the motion since it was premature.

Educational objective:

A party may move for judgment on the pleadings to dismiss a suit once the pleadings have closed. When a party asserts a counterclaim, crossclaim, or third-party claim, the pleadings close when an answer to those claims has been filed.

References

Fed. R. Civ. P. 12(c) (stating that a motion for judgment on the pleadings can only be made after the pleadings have closed).

5C Charles Alan Wright et al., Federal Practice and Procedure § 1367 (3d ed. 2021) (explaining that the pleadings close once an answer to a counterclaim, crossclaim, or third-party claim has been filed).

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