IRFLP 210 Third Party Practice

Idaho Rules of Family Law Procedure Rule 210. Third party practice.

A. When respondent may bring in third party. At any time after commencement of the action a respondent as a third-party petitioner may cause to be served a summons and petition upon a person not a party to the action who is or may be liable to such third-party petitioner for all or part of the petitioner's claim against the third-party petitioner. The third-party petitioner need not obtain leave to make the service if the third-party petitioner files the third-party petition not later than 10 days after serving the original response. Otherwise the third-party petitioner must obtain leave on motion upon notice to all parties to the action. The person so served, hereinafter called the third-party respondent, shall make any defenses to the third-party petitioner's claim as provided in Rule 205 [1] and any counterclaims against the third-party petitioner and cross-claims against other third-party respondents as provided in Rule 209 [2]. The third-party respondent may assert against the petitioner any defenses which the third-party petitioner has to the petitioner's claim. The third-party respondent may also assert any claim against the petitioner arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third-party petitioner. The petitioner may assert any claim against the third-party respondent arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third-party petitioner, and the third-party respondent thereupon shall assert any defenses as provided in Rule 205 [1] and any counterclaims and cross-claims as provided in Rule 209 [2]. Any party may move for severance, separate trial, or dismissal of the third-party claim; and the court may direct a final judgment upon either the original claim or the third-party claim alone in accordance with the provisions of Rule 804 [3]. A third-party respondent may proceed under this rule against any person not a party to the action who is or may be liable to the third party respondent for all or part of the claim made in the action against the third-party respondent.

B. When petitioner may bring in third party. When a counterclaim is asserted against a petitioner, he may cause a third party to be brought in under circumstances which under this rule would entitle a respondent to do so.

C. Persons to be Joined if Feasible.

A person who is subject to service of process shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff.

D. Determination by Court Whenever Joinder Not Feasible.

If a person as described in subdivision C-D hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to the person or those already parties; second, the extent to which, by

protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the action is dismissed for non-joinder.

E. Permissive Joinder of Parties - Permissive Joinder.

All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

F. Misjoinder and Nonjoinder of Parties.

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

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[1] http://isc.idaho.gov/irflp205
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