



## **IRFLP 211 Third-Party Practice**

### **Idaho Rules of Family Law Procedure Rule 211. Third-Party Practice.**

#### **(a) When a Responding Party May Bring in a Third Party.**

(1) **Timing of the Summons and Petition.** A responding party may, as a third-party petitioner, serve a summons and petition on a nonparty who is or may be liable to it for all or part of the moving party's claim against it. But the third-party petitioner must, by motion, obtain the court's leave if it files the third-party petition more than 14 days after serving its answer.

(2) **Timing of the Summons and Petition.** The person served with the summons and third-party petition, the "third-party respondent":

(A) must make any defense to the third-party petitioner's claim under Rule 205;

(B) must assert any counterclaim against the third-party petitioner under Rule 210(a) and may assert any counterclaim against the third-party petitioner under Rule 210(b) or any cross-claim against another third-party respondent as provided in Rule 210(f).

(3) **Petitioner's Claims Against a Third-Party Respondent.** The petitioner may assert against the third-party respondent any claim arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third-party petitioner. The third-party respondent must then assert any defense under Rule 205 and any counterclaim under Rule 210(a), and may assert any counterclaim under Rule 210(b) or any cross claim under Rule 210(f).

(4) **Motion to Strike, Sever, or Try Separately.** A party may move to strike the third-party claim, to sever it, or to try it separately.

(5) **Third-party Respondent's Claim against a Nonparty.** When a claim is asserted against a moving party, the moving party may bring in a third party if this rule would allow a respondent to do so.



(b) **When a Moving Party May Bring in a Third Party.** When a claim is asserted against a moving party, the moving party may bring in a third party if this rule would allow a respondent to do so.

(c) **Required Joinder of Parties.**

(1) **Persons Required to be Joined if Feasible.**

(A) **Required Party.** A person who is subject to service of process will be joined as a party in the action if:

(i) in that person's absence, the court cannot accord complete relief among existing parties; or

(ii) 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:

(a) as a practical matter impair or impede the person's ability to protect that interest; or

(b) 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.

(B) **Joinder by Court Order.** If a person has not been so joined as required, the court must order that the person be made a party. A person who refuses to join as a petitioner may be made either a respondent or, in a proper case, an involuntary petitioner.

(2) **When Joinder is Not Feasible.** If a person who is required to be joined if feasible cannot be joined, the court must determine whether, in equity and good conscience, the action should proceed among the existing parties or be dismissed. The factors for the court to consider include:

(A) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;

(B) the extent to which any prejudice could be lessened or avoided by



(i) protective provisions in the judgment;

(ii) shaping the relief; or

(iii) other measures;

(C) whether a judgment rendered in the person's absence would be adequate; and

(D) whether the petitioner would have an adequate remedy if the action is dismissed for nonjoinder.

**(d) Permissive Joinder of Parties.**

**(1) Persons Who May Join or Be Joined.**

(A) **Petitioners.** All persons may join in one action as petitioners if:

(i) 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

(ii) if any question of law or fact common to all of them will arise in the action.

(B) **Respondents.** All persons may be joined in one action as respondents if:

(i) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(ii) any question of law or fact common to all of them will arise in the action.



(C) **Extent of Relief.** Neither a petitioner nor a respondent need be interested in obtaining or defending against all the relief demanded. The court may grant judgment to one or more of the petitioners according to their rights, and against one or more respondents according to their liabilities.

(e) **Misjoinder and Nonjoinder of Parties.** Misjoinder of parties is not a ground for dismissing an action. On motion or on its own motion, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party.

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