

CPLR ARTICLE 10: PARTIES.

Copyright 2007, Yosef Seigel. MAY BE FREELY DISTRIBUTED.

It may be necessary to JOIN certain individuals to a case if they have a legal interests in the outcome. If they refuse to join voluntarily as a PLAINTIFF, they are then be joined involuntarily as a DEFENDANT upon summons.

If PERSONAL JURISDICTION cannot be obtained against a party NECESSARY to be JOINED, the case can nevertheless proceed without them.

NON-JOINDER of a necessary party is grounds for dismissal; of the action.

MIS-JOINDER of parties is **NOT** grounds for dismissal.

Parties may be added with anytime with permission of the Court or by STIPULATION of all *appearing* parties; **OR** ONCE within 20 days after service or within the time for answering/responsive pleadings.

Cases involving an Executor, Administrator, Conservator, Committee, Guardian, etc... need **NOT** necessarily join the INFANT or INCOMPETENT.

STAKEHOLDER: an individual with multiple adverse claimants against him/her, based on the same cause of action.

INTERPLEADER: a case where the DEFENDANT is a STAKEHOLDER.

DEFENSIVE INTERPLEADER: wherein DEFENDANT files papers to join CLAIMANTS not already PLAINTIFFS.

DEFENDANT can SUMMONS a person who may be liable for whole or part of the claim to the PLAINTIFF. In this situation, the DEFENDANT is styled the 3rd PARTY PLAINTIFF against the 3rd PARTY DEFENDANT, and a 3rd PARTY SUMMONS is filed.

INTERVENTION: an individual or body may INTERVENE in a case, as of RIGHT:

- 1) if the statute conveys such a right;
- 2) if the CONSTITUTIONALITY of a statue is at stake, then by the local authority that enacted such statute, or by the Attorney General if it be a State law;
- 3) By the COMPTROLLER, if the case involves RETIREMENT benefits.

INTERVENTION may also be by permission of the Court.

If parties *must* be SUBSTITUTED, failure to so substitute is grounds for dismissal of action.

SUBSTITUTION of parties extends procedural time limits by 15 days, including after dismissal of the action.

In proceedings to review a determination by the Court of Appeals, the **ONLY** proper party is the CHIEF ADMINISTRATOR, do **NOT** name the Chief Justice!