

Proposed Amendments to Rule 14

Rule 14 is amended as follows:

Rule 14. Third-Party Practice

(a) When Defendant May Bring in Third Party.

(1) Timing of the Summons and Complaint. ~~[At any time after commencement of the action a]~~ **A** defending party **may**, as a third-party plaintiff, **serve**~~[may cause]~~ a summons and complaint ~~[to be served up]~~ on a ~~[person not a]~~ **non**party ~~[to the action]~~ who is or may be liable to **it**~~[the third-party plaintiff]~~ for all or part of the ~~[plaintiff's]~~ claim against **it**~~[the third-party plaintiff]~~. **But t**~~[t]~~he third-party plaintiff **must** ~~[need not]~~ obtain, **by motion, the court's** leave ~~[to make the service]~~ if **it** ~~[the third-party plaintiff]~~ files the third-party complaint **more** ~~[not later]~~ than 10 days after serving **its**~~[the]~~ original answer. ~~[Otherwise the third-party plaintiff must obtain leave on motion upon notice to all parties to the action.]~~

(2) Third-Party Defendant's Claims and Defenses. The person served with the summons and third-party complaint ~~-, hereinafter called]~~ the "third-party defendant":

(A) will assert ~~[shall make]~~ any defense~~[s]~~ **against**~~[to]~~ the third-party plaintiff's claim **under** ~~[as provided in]~~ Rule 12;

(B) will assert ~~[and]~~ any counterclaim~~[s]~~ against the third-party plaintiff **under Rule 13(a)**, and **may assert any** ~~[cross-claims]~~ **crossclaim** against **another** third-party defendant~~[s]~~ **under** ~~[as provided in]~~ Rule 13**(f)**;

(C) may assert ~~[The third-party defendant may assert]~~ against the plaintiff any defense[s] **that** ~~[which]~~ the third-party plaintiff has to the plaintiff's claim; **and**

(D) ~~[The third-party defendant]~~ may also assert any claim against the plaintiff, if (1) the claim involves the imported merchandise that is the subject matter of the civil action, or (2) the claim is to recover ~~[up]~~ on a bond or customs duties relating to such merchandise.

(3) Plaintiff's Claims Against a Third-Party Defendant. The plaintiff may assert ~~[any claim]~~ against the third-party defendant **any claim** if (1) the claim involves the imported merchandise that is the subject matter of the civil action, or (2) the claim is to recover ~~[up]~~ on a bond or customs duties relating to such merchandise. ~~[and t]~~ **The third-party defendant must then** ~~[thereupon shall]~~ assert any defenses ~~[as provided in]~~ **under** Rule 12 and any counterclaim[s] **under Rule 13(a), and may assert any** ~~[and cross-claims]~~ **crossclaim under** ~~[as provided in]~~ Rule 13(f).

(4) Motion to Strike, Sever, or Try Separately. Any party may move to strike the third-party claim, **to sever it, or to try it separately.** ~~[for its severance or for a separate trial].~~

(5) Third-Party Defendant's Claim Against a Nonparty. A third-party defendant may proceed under this rule against ~~[any person not]~~ a **nonparty** ~~[to the action]~~ who is or may be liable to the third-party defendant for all or part of **any** ~~[the]~~ claim ~~[made in the action]~~ against **it** ~~[the third-party defendant].~~

(b) When a Plaintiff May Bring in a Third Party. When a [counter]claim is asserted against a plaintiff, the plaintiff may **bring in** [cause] a third party [to be brought in under circumstances which under] this rule would **allow** [entitle] a defendant to do so.

(As amended July 28, 1988, eff. Nov. 1, 1988; _____ **2008, eff.** _____ **2009.**)

Advisory Committee Note

The language of Rule 14 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.