

PROBLEM ON JOINDER OF CLAIMS AND PARTIES

Able and Jones are the writers, producers, and directors of a successful off-Broadway play called Diamond Studs. Schultz is the wealthy but eccentric author of a copyrighted play called Prairie Passions. After attending a performance of Diamond Studs, Schultz invited Able and Jones to a party at his home on Long Island. In front of a large group of guests, Schultz accused Able and Jones of plagiarism. The dispute turned into a fight, and Able and Jones seriously injured Schultz, who also injured each of them. Platt, another guest, also joined in the melee and struck Able several times with a heavy ashtray, inflicting a head injury. As Able was being placed in an ambulance, Baker, Schultz's chauffeur, unintentionally ran into the ambulance while bringing more guests to the party in Schultz's limousine. Able sustained further injuries.

Schultz is a citizen of New York. Able, Jones, Platt, and Baker are citizens of New Jersey. Each of the potential claims that any of these persons has against the others exceeds \$75,000.00. Schultz files a statutory copyright infringement action against Able and Jones in the United States District Court for the Eastern District of New York.

(a) What claims do Able and Jones have against Schultz? Which of these claims may they assert as counterclaims in their answers? Which of these claims must they assert as counterclaims in their answers?

(b) May Schultz join his assault and battery claims with his copyright infringement claims in the federal action? May Schultz join the copyright and assault and battery claims in an action brought in the Supreme Court of the State of New York? If Schultz fails to join his assault and battery claims with the copyright infringement claims in the federal action, does he lose his tort action?

(c) Assume Schultz joins his assault and battery claims with the copyright infringement claim. Must Able and Jones include any of their claims against Schultz in their answer? Suppose Able believes he has a valid claim against Schultz for injuries caused by Baker's negligence in driving the limousine. May Able join Baker as a party if Able asserts the negligence claim against Schultz as a counterclaim? Does the answer depend on Schultz's decision to join his assault and battery claim with his copyright infringement action?

(d) Suppose Able crossclaims against Jones for contribution on the claim by Schultz against Able and Jones for assault and battery. May Able join Platt as a cross-defendant on the contribution claim?

(e) Suppose Schultz were a citizen of New Jersey. Would he then be able to join his assault and battery claim with his copyright infringement claim against Able and Jones in the federal action? Does the answer to this question also determine the question of the court's jurisdiction over each of Able's counterclaims?

In considering these questions, consult Federal Rules 13, 18, 19, and 20. Be prepared in class to specify which rule is applicable to each question and which language from the applicable rule is dispositive.

