

Question MEE 3 – February 2023 – Selected Answer 1

(1) The woman is permitted to join the insurance company as a third party defendant because it arises from the same occurrence and SMJ is not destroyed.

Generally in impleader, a defendant may join another party as a third party defendant to seek indemnification or contribution. Such claims must arise from the same transaction or occurrence or present at least one common question. However, such claims require the court to have subject matter jurisdiction over the third party defendant.

Here, the woman is seeking to join the insurance company as a third party defendant, which is permitted by the federal rules of civil procedure. Such a claim arises from the same transaction or occurrence because the crash between the man and the woman required that the insurance company indemnify the woman. Additionally, the diversity requirement of SMJ is not destroyed because the man, the plaintiff, is domiciled in state B, the woman, defendant, is domiciled State A and the insurance, third party defendant, has its principal place of business in State A. As such, all plaintiffs are diverse from all defendants and diversity is not destroyed.

Therefore, the woman is permitted to join the insurance company as a third party defendant because the claim arises from the same transaction or occurrence and does not destroy subject matter jurisdiction.

(2) The State B court may assert specific jurisdiction over the insurance company because a suit brought on behalf of a covered individual is foreseeable.

Personal jurisdiction (PJ) refers to the court's ability to assert jurisdiction over a defendant and can either be general or specific. General jurisdiction requires that the defendant's contacts with the forum state be so continuous and systematic that they are considered at home in the forum state. Specific jurisdiction requires that the defendant has minimum contacts with the forum state. In other words, the defendant purposefully avails itself to the forum state so that it is foreseeable that it could be sued in the forum state and being sued in that forum does not violate fair play and substantial justice.

Here, the insurance company has no facilities in State B which means that their contacts with state B are not continuous and systematic so that the insurance company is considered to be at home in the state. However, the court may be able to assert specific jurisdiction over the insurance company. While the insurance company does

not due business in state B it still may be foreseeable for it to be sued there. Specifically, insurance companies provided car insurance to individuals. It is foreseeable that individuals, such as the women, may get into car accidents in other states. As a result, it is foreseeable that the insurance company providing coverage for the women may be sued in states where covered individuals are located.

Therefore, the State B court may assert specific jurisdiction over the insurance company because a suit brought on behalf of a covered individual is foreseeable.

(3) The court may and should allow for the complaint against the insurance company to be appealed because her interests will be substantially impaired if it is not joined for contribution.

Generally, for a proper appeal requires there to be a final judgment on the merits of the case at issue. However, some claims may be appealed if they have not reached final judgment on the merits. These cases occur when (1) the issues to be appealed are separable from the issues of the case, (2) the party's interest may be substantially impaired if not resolved and (3) there is no reason for delay.

Here, the state B court has not yet reached a final judgment on the merits. However, it still may grant an appeal to the women in the claim against the insurance company. Specifically, as to 1, the issues of the case are clearly separable meaning that the issues involving the payment of her premiums and the insurance contract do not bear any weight on the man's claim against the women. Furthermore, as to 2, the woman's interest will likely be substantially impaired because if she is not allowed to join the insurance company as a third party defendant she will bear the costs of the man's suit. Finally, as to 3, there is no reason for delay because delaying such an appeal would impair the interest of the woman.

Therefore, the court may and should allow for the complaint against the insurance company to be appealed because her interests will be substantially impaired if they are not joined for contribution.

Question MEE 3 – February 2023 – Selected Answer 2

1. Whether the woman successfully used impleader to file a third-party complaint against the insurance company and join it to the action.

Under the Federal Rules of Civil Procedure (FRCP), a party may implead any third party who is liable for all or part of their own liability. The claim against the third

party must relate to the original claim. Impleader does not require that the party be "necessary" to resolve the dispute, as the only condition that must be met is the relation of the third party plaintiff's claim against the third party defendant to the original claim.

Here, the woman successfully used FRCP to implead the insurance company to the lawsuit. The woman made a claim that the insurance company was liable for all or part of her liability to the man due to the insurance contract between the two. This claim relates to the man's original claim against the woman because it determines who is liable to pay for the man's damages should he succeed. Therefore, the woman successfully used impleader to file a third-party complaint against the insurance company and join it in the action.

2. Whether the court has personal jurisdiction over the insurance company under the "bulge provision" of the FRCP.

Generally, a federal district court can exercise personal jurisdiction over a defendant to the same extent as a state court within the applicable state. This normally requires the courts exercise of jurisdiction to be authorized by the state's long-arm statute and to be in accord with the Due Process Clause of the Fifth Amendment Constitution. Generally, personal jurisdiction is constitutionally valid if the defendant has minimum contacts with the state such that they purposely avail themselves to the state and could reasonably foresee being sued there based on their contacts. However, under the FRCP, when a third party defendant is joined using impleader, the court may exercise the "bulge provision" to acquire personal jurisdiction over the third party defendant. This provision simply requires that the defendant be served within 100 miles of the federal court, no matter if such service is in the same state in which the court sits, to exercise personal jurisdiction.

Here, the insurance company was validly added as a third-party defendant to the suit. Therefore, the court was able to exercise personal jurisdiction over the insurance company if it was served within 100 miles of the court's location. The court is located in Small Town in State B, which is only ten miles from Big City in State A, where the insurance company was served by the woman's process server. Therefore, the court has personal jurisdiction under the "bulge provision" of the FRCP.

3. What actions could be taken by the woman to allow her to immediately appeal the courts dismissal of her claim and whether the court should take such actions.

Generally, a party may not appeal a ruling of a federal district court until there has been a final judgment on the claim. Typically, a final judgment arises when judgment is rendered on all the claims in a lawsuit. However, a partial final judgment is applicable where one of multiple claims are decided by a court and the court certifies that there is no just reason for delay. Unless the district court certified no just reason for delay, the party seeking to appeal must generally wait until the final judgment is full and on all claims in the lawsuit.

Here, the court's dismissal of the woman's third-party complaint against the insurance company does not resolve the entire lawsuit. The claim by the man against the woman for negligence is still active and will generally need to be adjudicated fully until the woman can appeal the dismissal. However, if the court finds that there is no just reason for delay, it can allow the woman to immediately appeal the dismissal as a partial final judgment. Here, the court should make such a finding as the claim largely involves the insurance agreement between the woman and the insurance company, under which the insurance company could be liable for all or part of the woman's damages to the man. This means that there is no just reason to delay the woman's appeal of this dismissal, as such delay will not inhibit the man's negligence action against the woman in any way. Therefore, the court can and should find no just reason for delay of the woman's appeal of its dismissal, allowing the woman to immediately appeal the dismissal.