Necessary Parties

easy to think someone is a necessary party when he isn’t

P, D, and X are in an accident in which D runs into P’s and X’s car   
P sues D for negligence  
Is X a necessary party on the ground that a determination of D’s negligence in X’s absence will impair X’s ability to protect his interest?

* NO - Additional plaintiff is not a necessary party because he will not be bound by the finding in the first lawsuit. Additional plaintiff can have his own day in court. Cannot be bound if you were not a party.
* e.g. P, D, and X are in an accident in which D runs into P’s and X’s car   
  P sues D for negligence  
  D is determined to be not negligent  
  X then sues D for negligence  
  can D preclude X from relitigating the issue of D’s negligence? NO
* This might lead to inconsistent determinations of D’s negligence, but that’s just how it is.
* Inconsistency is fine as long as there are not inconsistent **obligations**.

COMPARE

P, D, and X are in an accident in which all three cars run into one another  
P sues D for negligence  
D is found not liable on the ground the P was contributorily negligent  
P then sues X for negligence  
Can X preclude P from relitigating the issue of P’s contributory negligence?

Yes (at least some jurisdictions allow this) – P was a party in the earlier suit

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A, B and C are in a brawl  
A sues B for battery (but C really did it)  
Is C a necessary party because he is essential for B’s defense?

NO – can simply offer defense that C did it – don’t need to make him a party to do that

* It is more likely that there will be necessary parties in cases where injunctive relief is requested.
* So when is there a necessary party? (1) If court cannot provide complete relief.
* - you are suing a corporation to have certain dividends declared in your name, but the majority of a board of directors has to sign on for that to happen  
  - are the members of the board necessary parties?
* YES - Relief is not possible if other parties are not brought into the case.
* - water flows from D’s property down to P’s, flooding it  
  - P sues D to erect a dam to protect P’s property  
  - if the dam is erected X’s property, upstream from D’s will be flooded  
  - Is X a necessary party?

YES

19(a)(1)(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person’s absence may:  
            (i) as a practical matter impair or impede the person’s ability to protect the interest; or  
            (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

* Often, the problem can be framed in terms of B(i) or B(ii). As a practical matter, you can look at the problem under either section.

could say that X will not be able to protect his interest because the injunction to build the dam will already have been litigated

or could say that if X is able to relitigate and win, then D could be subject to inconsistent obligations – build dam and tear it down

Glueck sues Company to have Company reissue shares currently held by Haas in Glueck and Haas’s name  
Haas (who thinks shares are all his) is a necessary party  
why?

* There can be a necessary party when ownership is disputed to avoid a party’s having to pay out twice on the same claim.
* assume Company loses to Glueck and gives him ½ of shares
* here if Haas is not made a party, he could sue Company and get all of the shares
* concerning ½ of shares Company will have paid out twice
* **Hypo #5 –example of necessary party** 
  + P claims a vase in D’s possession  
      
    X also claims the vase  
      
    X is a necessary party  
      
    why?
  + **Because it can also be X’s property**
  + **It would satisfy properties of R19**
    - **X has interest in action b/c he says it’s his vase**
    - **If P wins and gets vase, and X tries to sue D, P has it**
    - **But maybe he sues for the value of the vase**
    - **But then D would be subject for multiple obligations to pay**
    - **X and any other claimant is necessary party**
    - **We also see why in rem action is important b/c it would bring in all these claimants together**
    - **Green: when not in rem action but instead try to bring in multiple claimants, you yourself are not claiming to be owner, the name for this interpleader**
* **Hypo #6—necessary party** 
  + a purchaser of a debenture sues the issuer to assert alleged right to convert the debenture into stock  
      
    are the other owners of the debentures necessary parties?
  + **Yes b/c they have common interest in whether they have ability to convert it**
  + **Shouldn’t have multiple law suits b/c there is a problem with having these bonds moving around where certain bonds can be converted to equity and others can’t**
  + Bonds being bought and sold, would mean that there is no longer market in that debt b/c it would have completely different characteristics
  + Green: practically necessary to have uniform approach
  + **If you have all these people as necessary parties and there are more than can have their own lawyers participating in a law suit, you turn it into a class-action suit** 
    - And that’s how class actions started
      * Necessary parties but too many to give everyone their own lawyer
      * So you had to determine the fate of all through the action of one representative plaintiff
    - Class actions have gone well beyond this
      * Ex: mass tort –big explosion and a lot of people hurt
        + here the claimants are not necessary parties
        + it is only the level of efficiency to have all suits brought in that justifies it as a class action
    - Original class action was where all these people were necessary parties but there were too many so class action makes sense
* **Hypo #7**
  + Glueck (NY) sues Company (Cal.) in federal court in California to have Company reissue shares currently held by Haas (NY) in Glueck and Haas’s name.  
      
    is there a problem...?
  + **We know why Haas is necessary party**
  + **The problem with joining him is that Haas is diversity destroying party**
  + **Assume this is under state law, but now we have necessary party that is New Yorker**
  + **Count court solev problem by making Haas a plaintiff with Glueck?** 
    - **Sometimes a court can solve the problem this way but not here**
    - **Haas is D b/c he claims to be the owner of it all, contrary to what Glueck says**
      * **His relationship to Glueck would make it P/D relationship,**
      * **And company will probably side with Haas too (they gave property to Haas b/c it’s his)**
  + **So assuming that someone is necessary party but they can’t be joined because it would destroy diversity or there is no PJ independent of consent and consent won’t be given**
  + **Ct hast do decide if they can move forward without necessary party or if they need to throw out case entirely** 
    - **is the necessary party “indispensable”?**
  + **19(b)**
  + **(b) 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 should be dismissed. The factors for the court to consider include:  
        (1) the extent to which a judgment rendered in the person’s absence might prejudice that person or the existing parties;** [this just takes into account how necessary a party they are]  
    **(2) the extent to which any prejudice could be lessened or avoided by:  
            (A) protective provisions in the judgment;  
            (B) shaping the relief; or  
            (C) other measures;** [classic example, change injunctive relief into damages]

**(3) whether a judgment rendered in the person’s absence would be adequate;** [this just takes into account how necessary a party they are]

* + **and  
        (4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.** [is there a place where all the parties can be put together, eg state court]
* Torrington v. Yost
  + Trade secrets case in federal court
  + D worked for P, while working for P, signed confidentiality agreement
  + Left P to work at similar kind of job
  + D moved to dismiss under R19 for failure to join new employer INA
    - INA is a necessary party b/c they have an interest in the litigation and if they are not joined, they won’t be able to vindicate their interests and party will be subject to inconsistent obligations
    - Inconsistent determination on whether Yost can work for INA or not
  + Duplicative law suits
    - Torrington brought their claim and won
    - Then INA brought claim against Yost and won
    - Inconsistency here is under first judgment Yost is obligated to not work for INA and under second is obligated to keep his contract with INA and work for them
  + BUT INA and Torrington are from the same state and INA must be brought in as a D with Yost
  + Is INA indispensable?
    - main question is
      * whether there is an alternative forum where they can all be put together (yes – state court)
      * whether relief could be changed to solve problem – eg Yost made to work somewhere else at INA
* Rule 24 Intervention
  + (a) Intervention of Right.  On timely motion, the court must permit anyone to intervene who:  
        (1) is given an unconditional right to intervene by a federal statute; or  
        (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.
    - Green: (2) **could also be put in terms of someone who is already a party subject to inconsistent obligation**
* **Hypo #8**
  + African-Americans who have been refused employment by a fire department are suing the city for racial discrimination in hiring   
      
    they are asking for preferential treatment in hiring by the fire department as a remedy for past discrimination  
      
    may the white firefighters (or white applicants to the fire department) who would be affected by this relief intervene of right? **Are they necessary parties?** 
    - **could be so described under 19(a)(1)(B)**
    - that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person’s absence may:  
                  (i) as a practical matter impair or impede the person’s ability to protect the interest; or  
                  (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.
    - eg Af-Am’s win and then white firefighters sue fire dept. and also win – fire dept is subject to inconsistent obligs
    - or could say that if second suit is dismissed because of judgment in 1st the white firefighters can’t vindicate their interest
  + the idea of intervention of rights under 24(a) is similar – necessary party joins of own accord
    - BUT there is a tendency to say that the interest needed to be an intervenor of right is broader than the interest needed to be a necessary party – for an intervenor it might not be an interest that the intervenor could have sued on if he is not joined