

60-214. Third-party practice. (a) *When defending party may bring in a third party.* (1) *Timing of the summons and complaint.* A defending party may, as a third-party plaintiff, serve a summons and petition on a nonparty who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the court's leave if it files the third-party complaint more than 14 days after serving its original answer.

(2) *Third-party defendant's claims and defenses.* The person served with the summons and third-party petition, the "third-party defendant":

(A) Must assert any defenses against the third-party plaintiff's claim under K.S.A. 60-212, and amendments thereto;

(B) must assert any counterclaim against the third-party plaintiff under subsection (a) of K.S.A. 60-213, and amendments thereto, or any crossclaim against another third-party defendant under subsection (f) of K.S.A. 60-213, and amendments thereto, and may assert any counterclaim against the third-party plaintiff under subsection (b) of K.S.A. 60-213, and amendments thereto, or any crossclaims against another third-party defendant under subsection (g) of K.S.A. 60-213, and amendments thereto;

(C) may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim; and

(D) may also assert against the plaintiff any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(3) *Plaintiff's claims against a third-party defendant.* The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant must then assert any defense under K.S.A. 60-212, and amendments thereto, and any counterclaim under subsection (a) of K.S.A. 60-213, and amendments thereto, or crossclaim under subsection (f) of K.S.A. 60-213, and amendments thereto, and may assert any counterclaim under subsection (b) of K.S.A. 60-213, and amendments thereto, or any crossclaim under subsection (g) of K.S.A. 60-213, and amendments thereto.

(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.

(5) *Third-party defendant's claim against a nonparty.* A third-party defendant may proceed under this section against a nonparty who is or may be liable to the third-party defendant for all or part of any claim against it.

(b) *When a plaintiff may bring in a third-party.* When a claim is asserted against a plaintiff, the plaintiff may bring in a third-party if this section would allow a defendant to do so.

(c) *Execution by third-party plaintiff; limitation.* Where a third-party defendant is liable to the plaintiff, or to anyone holding a similar position under subsections (a) and (b), on the claim on which a third-party plaintiff has been sued, execution by the third-party plaintiff on a judgment against such third-party defendant shall be permitted only to the extent that the third-party plaintiff has paid any judgment obtained against the third-party plaintiff by the obligee.

History: L. 1963, ch. 303, 60-214; amended by Supreme Court order dated July 17, 1969; L. 1997, ch. 173, § 7; L. 2010, ch. 135, § 81; L. 2011, ch. 48, § 7; July 1.