

Rule 2253. Time for Filing Praecept or Complaint

(a) Except as provided by Rule 1041.1(e), neither a praecipe for a writ to join an additional defendant nor a complaint if the joinder is commenced by complaint, shall be filed by the original defendant or an additional defendant later than sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof unless such filing is allowed by order of the court [upon cause shown.] or by the written consent of all parties approved by and filed with the court. The praecipe for a writ to join an additional defendant or the complaint joining the additional defendant shall be filed within twenty days after notice of the court order or the court approval of the written consent or within such other time as the court shall fix.

NOTE: Rule 1041.1(e) provides that in asbestos litigation leave of court is not required to join an additional defendant out of time but the joined party may request by preliminary objection that the joinder be stricken.

(b) Any party may object to a motion to join an additional defendant after the sixty-day period prescribed by subdivision (a) on the ground that the party will be prejudiced by the late joinder. The plaintiff may also object to the late joinder on the ground that the joining party has not shown a reasonable justification for its delay in commencing joinder proceedings.

(c) A person not previously a party who is joined as an additional defendant may object to the joinder by filing preliminary objections asserting prejudice or any other ground set forth in Rule 1028.

NOTE: The person joined may object to the joinder whether the joinder was effected by order or consent.

Explanatory Comment

Rule of Civil Procedure 2253 governs the time for the joinder of an additional defendant.

The former rule is designated as subdivision (a) and revised in three respects. First, the words “upon cause shown” are deleted. However, the requirement reappears in limited form in subdivision (b). Second, there is new language allowing late joinder “by the written consent of all parties approved by and filed with the court.” Finally, a new sentence concludes the subdivision by requiring the filing within twenty days of the praecipe for writ of summons or of the complaint joining the additional defendant.

New subdivision (b) governs the procedure by which a party may object to a proposed late joinder of an additional defendant. Any party may object to the motion to join on the ground of prejudice. However, only the plaintiff may object on the ground of the absence of reasonable justification for the delay in commencing the joinder proceeding. The reasonable justification standard is the same as the cause shown standard of Rule 2253 prior to the present amendment.

New subdivision (c) governs the procedure by which a person not previously a party who has been joined as an additional defendant may object to his or her late joinder. The person joined as an additional defendant may file preliminary objections raising the ground of prejudice and any other ground applicable under Rule 1028 governing preliminary objections.

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair