

Naming DOE Defendants

A DOE defendant is a fictitiously-named defendant. DOE defendants are commonly named in complaints to substitute for defendants whose identity is not yet ascertained. By holding the place for a later-identified defendant, “DOE” designations are universally used in state court practice to permit filing an action before the expiration of the statute of limitations. Once the identity of a particular DOE defendant is ascertained, the plaintiff amends the complaint to refer to that particular DOE defendant under his/her real name. (See Chapter 10 - “Amending Pleadings”)

Naming DOE defendants serves other purposes as well.

- If the plaintiff misnames a defendant (e.g., by using a different middle name than the actual defendant), the judgment would be unenforceable. However, if the plaintiff named DOES in the complaint, the complaint could be amended by substituting the defendant’s correct name for one of the DOES, thus correcting the error.
- If the plaintiff does not know the true names of those who injured him/her, but only knows their nick names, the defendants may be initially named as DOE defendants.
- If the plaintiff knows the names of those who injured him/her, but has reason to believe they were not acting alone, the other unidentified defendants may be initially named as DOE defendants.
- If the plaintiff does not know all the facts upon which liability depends, the plaintiff may name DOE defendants under various theories of liability, and then amend the complaint to name the right DOE under the applicable cause of action.

The amended complaint will **relate back** to the date the original complaint was filed, thus satisfying the statute of limitations as to that later-identified DOE, if *all* of the following are satisfied:

- The plaintiff was ignorant of their true names at the time of the original filing, and the original complaint so stated.
- The original complaint alleged that the DOES were responsible for the injury claimed.
- The original complaint contained a valid cause of action against the DOES.
- The amendment inserting the names of the DOES is based on the same general facts as the original complaint.

Joinder Of Parties

Joinder of parties refers to bringing together different parties into one lawsuit. The plaintiff’s attorney must decide at the outset of the action which parties to join in the action. The attorney might be *required* to join certain parties, or might be *permitted* to join certain parties. **Compulsory**