



Caught in the Middle?

Understanding Interpleader Proceedings

Introduction

At times, a person may find themselves in the unenviable position of holding property that is the subject of competing claims. The stakeholder in such a scenario does not own the property but merely has possession or custody of it, yet risks being sued by multiple parties if they release it to the wrong claimant.

For example, a garage owner may be holding a motor vehicle which two different individuals both insist belongs to them. A mortician may be in custody of a body, with different relatives laying claim to the right of burial. A bank may be holding funds in

a dormant or disputed account, with rival claimants asserting entitlement. Similarly, an auctioneer may have seized goods under lawful process, only for a third party to step forward alleging ownership.

In each of these cases, the person in possession of the disputed subject matter is not interested in the dispute itself, but faces the danger of double liability should they hand it over to one party while another claims a better right. To resolve such dilemmas, the law provides a procedural safeguard known as interpleader proceedings.



What the law says

In such circumstances, the stakeholder is not permitted to remain passive; rather, they are obliged to move the court by way of an application for interpleader proceedings, so that the rightful ownership of the property may be determined between the rival claimants.

The purpose of this procedure is not to adjudicate the stakeholder's rights, but to relieve them from the burden of multiple claims and allow the court to settle the dispute directly between those asserting entitlement.

Under **Order 34, Rule 2** of the Civil Procedure Rules, a stakeholder who seeks to institute interpleader proceedings must satisfy the court on certain conditions:

- **No personal claim** – The stakeholder must demonstrate that they have no interest in the property other than a claim for lawful charges or fees associated with its custody (for instance, garage storage fees, warehousing charges, or mortuary fees).

- **No collusion** – The stakeholder must show that they have not colluded with any of the competing parties in order to manufacture or perpetuate the dispute.
- **Readiness to release property** – The stakeholder must be willing and ready to deliver the property to whichever party the court declares to be the rightful owner.
- **Risk of multiple liability** – The stakeholder must show that they are either actually being sued or are under a real and reasonable apprehension of being sued by the competing claimants.

Evidence of such risk may be due to receipt of demand letters from rival claimants, or even the reasonable fear of litigation in light of the competing claims.

Once these requirements are met, the court may admit the interpleader proceedings, direct the claimants to plead their cases against each other, and ultimately discharge the stakeholder from further liability.



How to approach Court

Where no suit has yet been filed between the competing claimants, the stakeholder may approach the court by instituting interpleader proceedings through an Originating Summons. The procedure is governed by the general form of originating summons inter partes, namely Form No. 26 of the Civil Procedure Forms in Appendix A of the Civil Procedure Rules.

In such proceedings, the stakeholder is designated as the Plaintiff, while the rival claimants are joined as Defendants.

The Originating Summons seeks the court's determination of specific questions, namely:

- who between the defendants is the rightful owner of the disputed property, and
- who ought to compensate the stakeholder for any charges or fees properly incurred before surrender of the property.

Because of this unique nature, the application does not need to be supported by detailed grounds in the manner of a Notice of Motion or Chamber Summons.

Instead, any supporting material is presented through a Supporting Affidavit, sworn by the stakeholder, which accompanies the Originating Summons.

This affidavit typically sets out: the fact of possession, the competing claims made, the absence of collusion, the stakeholder's willingness to release the property to the rightful party, and the risk of multiple liability. The affidavit thus provides the evidentiary foundation upon which the court may admit the interpleader and direct the claimants to contest their respective rights.

Where there is already a suit in place, the stakeholder does not file a fresh originating summons. Instead, they move the court by way of a Chamber Summons supported by a Supporting Affidavit.

The court will then determine the rightful claimant within the suit and discharge the stakeholder once the property has been deposited or dealt with as directed. If the claim is made in suit by a defendant, the proceedings are stayed pending the full determination of the claim.