



The forum defendant rule, which is codified at Title 21 of the U.S Code, Section 1441(b)(2), might stir up vague memories of civil procedure courses long ago. Litigators should shake off the cobwebs, as federal courts are increasingly reevaluating the application of this rule when an in-state defendant has not yet been served.

In practice, the rule bars the removal of a case when an in-state defendant was properly joined and served. Several courts have noted that this requirement to properly join and serve an in-state defendant was added to prevent plaintiffs from blocking removal by improperly naming an in-state defendant, but never serving them.

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