

Alabama Rules of Civil Procedure

IV. PARTIES

Rule 18.

Joinder of claims and remedies.

(a) *Joinder of claims.* A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims either legal or equitable, or both, as the party has against an opposing party.

(b) *Joinder of remedies: Fraudulent conveyances.* Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to that plaintiff, without first having obtained a judgment establishing the claim for money.

(c) *Liability insurance coverage.* In no event shall this or any other rule be construed to permit a jury trial of a liability insurance coverage question jointly with the trial of a related damage claim against an insured.

(dc) *District court rule.* Rule 18 applies in the district courts, except that (1) in Rule 18(a) the provision for joinder of legal or equitable claims is limited to the joinder of claims which come within the jurisdiction of the district courts, (2) Rule 18(b) applies in the district courts only within the limits of the jurisdiction of the district courts, and (3) Rule 18(c) is deleted.

[Amended 5-16-83, eff. 7-1-83; Amended eff. 10-1-95.]

Committee Comments

It has not hitherto been possible to join tort and contract claims, save where they arose out of the same transaction or related to the same subject matter. Code of Ala., Tit. 7, § 220; cf. Equity Rule 15. This limitation, which is

irrelevant to the question of what actions may be conveniently tried together, is abolished. Rule 18(a) removes all such limitations. Where there is but one plaintiff and one defendant, there can be no misjoinder of claims. *Atlantic Lumber Corp. v. Southern Pac. Co.*, 2 F.R.D. 313 (D.Or.1941). Nor can there be misjoinder of claims where multiple parties are involved if the parties are properly joined under Rules 13, 14, 19, 20 and 22. It is for the court, pursuant to Rule 42(b), to order separate trials as to particular claims or issues as will best serve convenience and avoid prejudice.

As to the effect of venue requirements on joinder of claims, see Rule 82(c).

Rule 18(b) is inserted to make it clear that in a single action a party should be accorded all the relief to which he is entitled regardless of whether it is legal or equitable or both. In respect to fraudulent conveyances the rule conforms to the provisions of the Uniform Fraudulent Conveyance Act, §§ 9 and 10. See McLaughlin, *Application of the Uniform Fraudulent Conveyance Act*, 46 Harv.L.Rev. 404, 444 (1933).

Rule 18(a) is comparable to Federal Rule 18(a) which was rewritten in 1966, not to make any basic change but to clarify language which had been the basis of restrictive construction. According to U.S.S.Ct. Advisory Committee, "the rules proceed on the theory that no inconvenience can result from the joinder of any two or more matters in the pleadings, but only from trying two or more matters together." Federal Rule 18(a) as it formerly stood contains reference to Rules 19, 20 and 22. This language in the Rule dealing only with joinder of claims and remedies was the basis for a line of cases making the rule, in its operation, subordinate and subject to the requirements of Rule 20 dealing with joinder of parties. The progenitor of this line of cases was *Federal Housing Adm'r v. Christianson*, 26 F.Supp. 419 (D.Conn.1939), a case which has been suggested to be an incorrect construction of the Rule as it was originally written. See Wright, *Federal Courts*, p. 344 (2d Ed.1970). This construction was given credibility by the language of Rule 20(a) wherein the ambiguous word "them" was used. These cases construed the word "them" in Rule 20 to mean "claims" and, hence, found that Rule 20 spoke to claims as well as parties. The result was the incorporation by reference of Rule 20 requirements for parties upon Rule 18 requirements for claims. Since Rule 20 requirements were narrower, Rule 18 became more restricted than it would have been had Rule 20 never been carried in by reference. Rule 18 as now written seeks to eliminate this situation. The specific reference to other rules is eliminated. The inclusion of specific reference to compliance with other rules in the first place is dubious because it would appear to go without saying that each rule depends upon compliance with other rules. Otherwise, for example, each reference to a complaint should be coupled with the phrase "subject to compliance with requirements of Rule 12." As a

corollary measure, the word “them” in Rule 20 now reads, “these persons.” As a result, the joinder of claims under Rule 18 comes into play after examination for compliance with Rule 20 and satisfaction of Rule 18 requirements is measured without further reference to Rule 20. Of course, the Rule as now written commands the existence of the severance provisions of Rule 42(b), Separate Trials.

Question has arisen as to the propriety of joinder of insured and insurer. Superficially, Rule 18 might suggest the possibility of joinder of a contingent claim against the insurer. However, these rules do not afford a basis for alteration of substantive rights of parties created by contract (*Hughes v. Hartford Accident & Indemnity Co.*, 223 Ala. 59, 134 So. 461 (1931) (no action clause in insurance policy enforceable)), and Tit. 28, § 12, Code of Ala., providing for an action against insurer upon recovery of a final judgment. For discussion of this situation in federal practice, see Wright & Miller, *Federal Practice and Procedure, Civil*, § 1594, and 3A Moore’s *Federal Practice*, ¶ 18.08(2), p. 2011 (1970). The provisions of Rule 18(c) have been inserted to prevent a joint trial on the issue of insurance coverage and a related damage claim in those actions wherein the provisions of Rule 18 have permitted joinder of those claims for pleading purposes or where such an issue is presented by third party action, counterclaim, cross-claim or in a declaratory judgment proceeding.

**Committee Comments to October 1, 1995,
Amendment to Rule 18**

The amendment is technical. No substantive change is intended.

District Court Committee Comments

The jurisdictional limitations contained in § 4-102 of the Judicial Article Implementation Act (Act 1205, 1975 Ala.Acts; § 12-12-30, Code 1975) must be read in conjunction with the provision for a joinder of claims, legal or equitable, referred to Rule 18(a). Likewise, the jurisdiction limitation of the district court must be applied to any construction of Rule 18(b). Finally, Rule 18(c) deals with procedure in a jury trial and, in view of the absence of provision for trial by jury in the district court, has no applicability to the district courts.

[Amended effective July 1, 1983.]