

## Alabama Rules of Civil Procedure

### IV. PARTIES

#### Rule 19.

##### **Joinder of persons needed for just adjudication.**

(a) *Persons to be joined if feasible.* A person who is subject to jurisdiction of the court shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and joinder of that party would render the venue of the action improper, that party shall be dismissed from the action.

(b) *Determination by court whenever joinder not feasible.* If a person as described in subdivision (a)(1)-(2) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to the person or those already parties; second, the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(c) *Pleading reasons for nonjoinder.* A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons as described in subdivision (a)(1)-(2) hereof who are not joined, and the reasons why they are not joined.

(d) *Exception of class actions.* This rule is subject to the provisions of Rule 23.

(dc) *District court rule.* Rule 19 applies in the district courts except that Rule 19(d) has no effect in view of inapplicability of Rule 23, Class Actions, in the district courts.

[Amended eff. 10-1-95.]

### **Committee Comments on 1973 Adoption**

Where early chancery practice developed the terminology of “indispensable,” “necessary,” and “proper” parties, this rule points to the same result from the use of such earlier terminology but arrives at such result with greater emphasis on the pragmatic considerations which ultimately govern joinder of parties. The indispensable, necessary and proper terminology as elaborated in *Shields v. Barrow*, 58 U.S. (17 How.) 130, 136, 15 L.Ed. 158 (1854), have been a usual part of all merged systems. See also Equity Rules 29 and 30, which will be superseded by this Rule and Rule 23. General principles developed from the terminology of indispensable, proper and necessary, remain applicable. The virtually identical counterpart to this Rule has been described by the U.S. Supreme Court as intended to reach the same results that had been available under Rules expressly employing such terminology. See *Provident Tradesmen’s Bank and Trust Co. v. Patterson*, 390 U.S. 102, 88 S.Ct. 733, 19 L.Ed.2d 936 (1968).

This Rule is identical to Federal Rule 19 except for elimination of language dealing with problems related to service of process and subject matter jurisdiction with which we are not concerned in state practice.

Rule 19(a) catalogs certain situations which, if applicable to persons not parties, would make them at least “necessary” parties as that term has been used in the past. Once the threshold determination has been made that a person not a party is within the frame of Rule 19(a) and is therefore at least a necessary party, it would be appropriate for the court to order his joinder upon Motion by the Defendant under Rule 12(b)(7) or Rule 21, or on the court’s own motion.

In the event a person is found to come within definition set forth in Rule 19(a), and it is further determined that said person cannot be made a party, the court, pursuant to Rule 17(b), must pass on the question as to whether the action should proceed in his absence. Rule 19(b) provides criteria to guide the court’s decision as to whether or not the action should proceed without the missing person. For example, relevant considerations include the extent to which the judgment rendered in his absence might be prejudicial to him or to those already

parties. Further, the court should consider the extent to which prejudice can be lessened or avoided through protective provisions in the judgment, decree or other relief. Question of adequacy of a judgment in the person's absence is relevant and, it would also be appropriate to consider whether the Plaintiff would have an adequate remedy if the action was dismissed for non-joinder.

Rule 19(c) requires the Plaintiff who has not joined a person who is potentially within the ambit of Rule 19(a) to plead the reasons why the plaintiff did not make these persons party.

Rule 19(d) clearly makes this Rule subject to any provisions contained in Rule 23, class actions.

The catalog of superseded statutes should be consulted in reference to this Rule. It is noted, in particular, that § 6-7-50, Code of Ala., creates a device wherein a necessary party plaintiff can be joined as an involuntary plaintiff upon the posting of a prescribed indemnity agreement. This statute remains in effect as it nicely complements the provisions of Rule 19(a) wherein joinder as an involuntary plaintiff is expressly provided.

**Committee Comments to October 1, 1995,  
Amendment to Rule 19**

The amendment is technical. No substantive change is intended.

**District Court Committee Comments**

For commentary as to the unavailability of Rule 23, see the District Court Committee Comments to Rule 23(dc).