

Alabama Rules of Civil Procedure

IV. PARTIES

Rule 22.

Interpleader.

(a) *Plaintiff or defendant.* Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another or that the plaintiff avers that the plaintiff is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.

(b) *Release from liability; deposit or delivery.* Any party seeking interpleader, as provided in subdivision (a) of this rule, may deposit with the court the amount claimed, or deliver to the court or as otherwise directed by the court the property claimed, and the court may thereupon order such party discharged from liability as to such claims, and the action continued as between the claimants of such money or property.

(c) *Attorney fees.* Regardless of whether the action was formerly understood to be a bill of interpleader or a bill in the nature of a bill of interpleader, the court may allow to one or more of the parties a reasonable sum or sums for counsel fees and disbursements payable out of said fund or property; but no such allowance shall be made unless it is claimed in a pleading.

(dc) *District court rule.* Rule 22 applies in the district courts.

[Amended eff. 10-1-95; Amended eff. 8-1-2004.]

Committee Comments on 1973 Adoption

Subdivision (a) following verbatim Federal Rule 22(1), codifies interpleader as it developed in the courts of equity. It modernizes that procedure, however, and particularly by the second sentence, ends the famous “four conditions” which restricted interpleader in equity. *John A. Moore & Co. v. McConkey*, 240 Mo.App. 198, 203 S.W.2d 512 (1947); *John Hancock Mut. Life Ins. Co. v. Yarrow*, 95 F.Supp. 185 (E.D.Pa.1951); Wright, *Joinder of Claims and Parties under Modern Pleading Rules*, 36 Minn.L.Rev. 580, 621-3 (1952). Equity Rule 36, which is superseded by this Rule, had a similar provision.

As a corollary to the interpleader which developed in equity, many states provided by statute for a somewhat similar procedure in law actions, by which a party who was sued could pay the amount demanded into court, be discharged from liability, and have other claimants of the fund substituted in his stead as defendants. E.g., Code 1940, Tit. 7, § 1179. Rule 22(a), like Federal Rule 22, makes adequate provision for a defendant, as well as a plaintiff, to seek interpleader, but it has no express provision for payment of the fund into court and discharge from liability. Thus subdivision (b) has been added to this effect. It is modelled on Ariz.R.C.P. 22(b); and see also Minn.R.C.P. 22, and proposed N.Dak.R.C.P. 22(b). As to deposit in court, see also Rule 67.

As to venue requirements in an interpleader action, see Rule 82(c).

The statutory requirement for verification, Code 1940, Tit. 7, § 1179 is ended by Rule 11.

This rule expressly deals with the subject of attorneys’ fees. Equity Rule 36, superseded by this Rule, spoke to Bills of Interpleader and Bills in the Nature of Interpleader and further provided for attorneys’ fees without recognizing any distinction in the event the action was a Bill in the Nature of Bill of Interpleader. This Rule carries forward such interpretation.

**Committee Comments to October 1, 1995,
Amendment to Rule 22**

The amendment is technical. No substantive change is intended.

**Committee Comments to Amendment to Rule 22(c)
Effective August 1, 2004**

Rule 22(c) was amended to replace the phrase “the complaint or answer” with “a pleading,” because a claim for interpleader may be contained in any pleading, including a counterclaim, cross-claim, third-party claim, etc.

Note from the reporter of decisions: The order amending Rules 4, 4.1, 4.2, 4.3, 4.4, 6(a), 7(b)(2), 17(a), 22(c), and 26(b), Alabama Rules of Civil Procedure, effective August 1, 2004, is published in that volume of *Alabama Reporter* that contains Alabama cases from 867 So.2d.