

Alabama Rules of Civil Procedure

IV. PARTIES

Rule 24.

Intervention.

(a) *Intervention of right.* Upon timely application, anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) *Permissive intervention.* Upon timely application anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) *Procedure.* A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene.

(dc) *District court rule.* Rule 24 applies in the district courts.

[Amended eff.10-1-95.]

Committee Comments on 1973 Adoption

This rule is virtually identical with Rule 24, F.R.C.P. The only differences are the deletions of matters not relevant to state practice.

The rule is more detailed, both as to the grounds for intervention and the procedure therefor, than Code of Ala., Tit. 7, § 247 and Equity Rule 37, which it supersedes. It expressly permits intervention wherever a statute gives a right to intervene, as in Code of Ala., §§ 6-6-252 (detinue), 6-6-568 (proceedings to quiet title), 6-6-150 (trial of right of property), and 35-6-21 (partition suits).

Leave of court is not required for the filing of a motion to intervene. An order authorizing intervention is, of course, necessary before the would-be intervenor becomes a party. *Cowan v. Tipton*, 1 F.R.D. 694 (E.D.Tenn.1941). Thus, the technical requirement of filing an application for leave to file a petition with the petition for intervention as Exhibit "A" and said petition often being a rehash of the application is no longer necessary.

The federal counterpart of Rule 24(c) has been construed to relax the requirements for a showing of a right to intervene. An earlier version of Rule 24 contained reference to being "bound by a judgment", suggesting that the applicant was required to show an impairment of his interest by operation of the doctrine of *res judicata*. Now, the rule refers to impairment of interest "as a practical matter" as adequate justification for intervention. This recognizes the impediment posed by *stare decisis* in later litigation involving the same questions of law and fact to which the unsuccessful applicant for intervention is finally a party. This broadening is confirmed in *Cascade Natural Gas v. El Paso Natural Gas*, 386 U.S. 129, 87 S.Ct. 932, 17 L.Ed.2d 814 (1967), wherein several parties, including the State of California, were permitted to intervene as a matter of right in a proceeding to frame a divestiture decree in an anti-trust case. Hence, there appears to be a recognition of interests other than immediate injury or loss to property as justification for intervention.

**Committee Comments to October 1, 1995,
Amendment to Rule 24**

The amendment is technical. No substantive change is intended.

**Committee Comments Adopted
February 13, 2004, to Rule 24**

In regard to Rule 24(a)(1), note that § 6-6-227, Code of Alabama 1975, provides: "In any proceeding which involves the validity of a municipal ordinance, or franchise, such municipality shall be made a party and shall be entitled to be heard" Also, if an ordinance or a statute is alleged to be unconstitutional, § 6-6-227 requires that the attorney general be served and be entitled to be heard. See the Committee Comments Adopted February 13, 2004, to Rule 5 regarding

service on the attorney general in a case in which the constitutionality of an ordinance or a statute is being challenged.

Note from the reporter of decisions: The order adopting the Committee Comments to Rules 5, 15, 21, 23, 24, and 42, Alabama Rules of Civil Procedure, effective February 13, 2004, is published in that volume of *Alabama Reporter* that contains Alabama cases from 865 So.2d.