

Alabama Rules of Civil Procedure

VII. JUDGMENT

Rule 57.

Declaratory judgments.

The procedure for obtaining a declaratory judgment pursuant to §§ 6-6-220 through 6-6-232, Code of Alabama 1975, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for declaratory judgment and may advance it on the calendar.

(dc) *District court rule.* Rule 57 does not apply in the district courts.

[Amended eff. 10-1-95.]

Committee Comments on 1973 Adoption

The rule makes no significant change in current Alabama procedure as to declaratory judgments. It expressly recognizes the adoption in this state of the Uniform Declaratory Judgments Act, and merely specifies that the procedure set out in these rules shall govern in actions brought pursuant to that act.

The second sentence of the rule is to the same effect as the sentence added in 1947 to the Uniform Act by the Alabama Legislature. Acts 1947, p. 444, Code of Ala., § 6-6-221. The rule and the 1947 statutory provision overrule earlier Alabama decisions to the contrary, such as *State v. Inman*, 238 Ala. 555, 191 So. 224 (1939), and *Bagwell v. Woodward Iron Co.*, 236 Ala. 668, 184 So. 692 (1938). See 3 Barron & Holtzoff, *Federal Practice and Procedure*, § 1266 (1958).

The rule expressly preserves the right to trial by jury in actions for a declaratory judgment. If the issues are of a sort which would be triable to a jury if they came up in an action asking for relief, rather than in a declaratory judgment suit, a jury must be had; if they would be triable to the court otherwise, they are triable to the court in a declaratory judgment suit.

Committee Comments to October 1, 1995,

Amendment to Rule 57

The amendment to Rule 57 replaced the citation to the Code of Alabama 1940 (Recomp. 1958) with the citation to the corresponding section of the Code of Alabama 1975.

District Court Committee Comments

Section 12-12-30(3), Code of Ala., provides that the district court shall not exercise jurisdiction over actions seeking declaratory judgments.