

Alabama Rules of Civil Procedure

VIII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

Rule 71.

Process in behalf of and against persons not parties.

When an order is made in favor of a person who is not a party to the action, other than a creditor of a party to a divorce proceeding, that person may enforce obedience to the order by the same process as if that person were a party; and when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as a party.

(dc) *District court rule.* Rule 71 does not apply in the district courts.

[Amended eff. 10-1-95.]

Committee Comments on 1973 Adoption

The rule is very similar to Federal Rule 71. Though Alabama has no general statutory counterpart, the existence of such a general principle, that court orders are fully enforceable in favor of and against all persons who are properly affected thereby even though technically not parties to the action, seems to have been taken for granted by Alabama courts in many instances.

The rule does not change existing law as to when persons not parties to an action may be proceeded against by court process. It merely provides that when there is such a right—e.g., *Ex parte State*, 162 Ala. 181, 50 So. 143 (1909)—the court's process may be enforced against them in the same manner and to the same extent as if they were in fact parties.

See generally 7 Moore's *Federal Practice*, ¶¶ 71.02-71.04 (2d ed.1971).

This rule has been drawn so as to specifically exclude creditor of a party in a divorce proceeding. For example, should the court order the husband to pay for certain appliances to be used by the ex-wife, the vendor of the appliances would not be entitled to take advantage of this rule. To permit this Rule to apply in such an instance would further complicate an already difficult proceeding.

**Committee Comments to October 1, 1995,
Amendment to Rule 71**

The amendment is technical. No substantive change is intended.