

FRCP, subtitled “Capacity to Sue or Be Sued,” provides generally that in those cases for which no rule of decision is provided, “capacity to sue or be sued shall be determined by the law of the state in which the district court is held.” In recognition of this court’s nationwide jurisdiction, the quoted language was rewritten by substituting “by the law of the applicable state” for “by the law of the state in which the district court is held.”

Rule 18. Joinder of Claims and Remedies

(a) Joinder of Claims. A party asserting a claim to relief as an original claim or counterclaim, may join, either as independent or as alternate claims, as many claims as the party has against an opposing party. A third party may join, to the extent permitted by law, as many claims as the party has against the opposing party.

(b) Joinder of Remedies. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties.

RULES COMMITTEE NOTE

The final sentence added to subdivision (a) was intended to recognize both the right of a third party to assert a claim and the limitations on that right as set forth in 41 U.S.C. §114 and applicable case law.

Rule 19. Joinder of Persons Needed for Just Adjudication

(a) Persons to be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action 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 an involuntary plaintiff.

(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 prescribed 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 RCFC 23.

(As amended Aug. 2, 2005.)

RULES COMMITTEE NOTE

Reference to RCFC 14 was deleted from subdivision (a) and other minor changes have been made in order to more closely conform to FRCP 19. Some differences, however, were retained—the most significant being the deletion of the last sentence of FRCP 19(a) from this court’s rule. The last sentence addresses objections to venue raised by a joined party. Such objections would not be assertable in this court.

Rule 20. Permissive Joinder of Parties

(a) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action. A plaintiff need not be interested in obtaining all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief.

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom the party asserts no claim and who asserts no claim against the party, and may order separate trials or make other orders to prevent delay or prejudice.

RULES COMMITTEE NOTE

The authority previously contained in RCFC 20(a)(1)–(2), permitting unrestricted joinder of additional plaintiffs to a pending multi-party action, proved cumbersome in practice and an impediment to sound case management. The joinder of additional plaintiffs should proceed by appropriate motion under RCFC 15. Accordingly, RCFC 20 was modified so as to more closely parallel the text of the corresponding FRCP.

Rule 21. Misjoinder and Non-Joinder of Parties

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

RULES COMMITTEE NOTE

The last sentence of the former rule, “To add plaintiffs, see RCFC 20(a)(1)–(2),” was eliminated to more closely conform the rule to FRCP 21.

Rule 22. Interpleader. [Not used.]

RULES COMMITTEE NOTE

The interpleader practice permitted under FRCP 22 is, for the most part, incompatible with the jurisdiction exercisable by this court. However, in those cases