

RULE 30

MISJOINDER AND NONJOINDER OF PARTIES

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

COMMENT

This is based on Federal Rule 21. Misjoinder or non-joinder are presently asserted by demurrer, motion to strike or pleading.

RULE 31

INTERPLEADER

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 alleges that 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 provision^s of this rule supplement and do not in any way limit the joinder of parties otherwise permitted by rule or statute.

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Procedure

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BACKGROUND NOTE

ORS chapters superseded: 13.110, 13.260(4).

COMMENT

This is based on Federal Rule 21. Misjoinder of parties under Rule 28, ~~formally raised by demurrer, is not a basis for dismissal.~~

~~Formerly~~ ~~Formerly~~ was Formerly raised by demurrer.

RULE 31

INTERPLEADER

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 ^{Alleges} ~~avers~~ that he 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 crossclaim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties otherwise permitted by ^{Rule or} statute.

BACKGROUND NOTE

ORS sections superseded: 13.120.

COMMENT

This rule is based upon Federal Rule 22. Adoption of this rule was recommended to the last legislature by the Oregon State Bar. Two forms of interpleader are covered by existing Oregon law, ORS 13.120 and equitable interpleader. The effectiveness of the interpleader device in Oregon under the existing rules is hampered by the limited scope of ORS 13.120 and the historic limitations on equitable interpleader. This rule is of general application and eliminates the equitable interpleader requirements that the same debt or duty be claimed by all the interpleaded parties, that the claimant's titles or claims be dependent on or derive from a common source, that the stakeholder not have or claim any interest in the subject of the interpleader and that the stakeholder not have incurred any independent liability to any one of the claimants.

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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 he 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 ^B rule supplement and do not in any way limit the joinder of parties otherwise permitted by statute.

~~32~~ CLASS ACTIONS

^{32 A}
^{B(1)} Requirement for class action. One or more members of a class may sue or be sued as representative parties on behalf of all only if:

(1) The class is so numerous that joinder of all members is impracticable; and

(2) There are questions of law or fact common to the class; and

(3) The claims or defenses of the representative parties are typical of the claims or defenses of the class; and

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COMMENT

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INTERPLEADER

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 alleges that he 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 crossclaim or counterclaim. The provision of this rule supplement and do not in any way limit the joinder of parties otherwise permitted by rule or statute.

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RULE 32

CLASS ACTIONS

A. Requirement for class action. One or more members of a class may sue or be sued as representative parties on behalf of all only if:

A.(1) The class is so numerous that joinder of all members is impracticable; and

A.(2) There are questions of law or fact common to the class; and

A.(3) The claims or defenses of the representative parties are typical of the claims or defenses of the class; and

A.(4) The representative parties will fairly and adequately protect the interests of the class; and

A.(5) In an action for damages under subsection (3) of section B. of this rule, the representative parties have complied