

the pleading moved against or to which the responsive pleading is directed.

B. through D. unchanged.

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RULE 28

JOINDER OF PARTIES

It was suggested that the requirement in Rule 28 that claims arise out of the same transaction and occurrence, or series of transactions or occurrences, might be too limiting where a plaintiff had one back injury and was involved in two separate accidents. That requirement is a key element in control of case size. If eliminated there would be nothing to stop 30,000 persons who were injured by 20 banks using an improper method of calculating interest from joining as parties in one case. That situation is better handled under a class action which requires only a common factual or legal question and no transactional relationship. The class action representative approach and court control makes such litigation manageable.

In any case, after doing some research it appears that the plaintiff could join the two defendants under the language of the rule. The language comes from Federal Rule 20 by way of the Oregon statute. Under the federal rule, an injured plaintiff can join an original tort feisor and a second tort feisor whose subsequent negligence aggravated plaintiff's original injuries. Lucas v. City of Juneau, 127 F. Supp. 730, (D.C. Alaska 1955), 7 Wright and Miller § 1653, pp 273-274.

3/1/79 .