

RULE 13

KINDS OF PLEADINGS ALLOWED;
FORMER PLEADINGS ABOLISHED

A. Pleadings. The pleadings are the written statements by the parties of the facts constituting their respective claims and defenses.

B. Pleadings allowed. There shall be a complaint and an answer. An answer may include a counterclaim against a plaintiff, including a party joined under Rule 22 D., and a cross-claim against a defendant[.], including a party joined under Rule 22 D. A pleading against any person joined under Rule 22 C. is a third party complaint. There shall be an answer to a cross-claim and a third party complaint. There shall be a reply to a counterclaim denominated as such and a reply to assert any affirmative allegations in avoidance of any defenses asserted in an answer. There shall be no other pleading unless the court orders otherwise.

C. Pleadings abolished. Demurrers and pleas shall not be used.

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RULE 15

TIME FOR FILING PLEADINGS OR MOTIONS

A. Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint [or] and the reply to a counterclaim or answer to a cross-claim of a party summoned under the provisions of Rule 22 D. shall be filed with the clerk by the time required by Rule 7 C.(2) to appear and defend. Any other motion or responsive pleading shall be filed not later than 10 days after service of

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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.

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Rule 14

* B. Form. The rules applicable to captions, signing, and other matters [or] of form of pleadings, including Rule 17 A., apply to all motions and other papers provided for by these rules.

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