

ecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Capacity to Sue or be Sued. The capacity of an individual, other than one acting in a representative capacity, to sue or be sued shall be determined by the law of the individual's domicile. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized. In all other cases capacity to sue or be sued shall be determined by the law of the applicable state, except (1) that a partnership or other unincorporated association which has no capacity by the law of its state may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right existing under the Constitution or laws of the United States, and (2) that the capacity of a receiver appointed by a court of the United States to sue or be sued in a court of the United States is governed by Title 28, U.S.C., Sections 754 and 959(a).

(c) Infants or Incompetent Persons. Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person.

RULES COMMITTEE NOTE

RCFC 17 was modified in minor respects in order to achieve closer conformity with FRCP 17. A difference between the court's rule and the corresponding federal rule occurs in subdivision (b). Subdivision (b) of the federal rule, 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 provisions of RCFC 23.

RULES COMMITTEE NOTE

Reference to RCFC 14 was deleted from subdivision (a) and other minor changes were 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 trans-