CURRENT ARIZONA RULE

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.

UNDERLINE AND STRIKETHROUGH SHOWING RULE AMENDMENTS

Rule 21. Misjoinder ~~and non-joinder~~ of ~~p~~Parties; Severance

~~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.~~ Failure to comply with Rule 20(a) is not a ground to dismiss an entire action. At any time—on just terms—the court may dismiss an improperly joined party or join any party who may be properly joined under Rule 20(a). The court may also sever any claim against a party, and that severed claim may proceed as a separate and independent action.

CLEAN AMENDED VERSION OF RULE

Rule 21. Misjoinder of Parties; Severance

Failure to comply with Rule 20(a) is not a ground to dismiss an entire action. At any time—on just terms—the court may dismiss an improperly joined party or join any party who may be properly joined under Rule 20(a). The court may also sever any claim against a party, and that severed claim may proceed as a separate and independent action.

CURRENT ARIZONA RULE

Rule 22. Interpleader

Rule 22(a). 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 avers that the 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 provisions of this Rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.

Rule 22(b). Release from liability; deposit or delivery

Any party invoking the interpleader, as provided by subdivision (a) of this Rule, may move the court for an order discharging that party from liability to either party, and upon depositing in court the amount claimed, or by delivering the property to the party entitled thereto, or into court as the court may direct, that party may be discharged.

UNDERLINE AND STRIKETHROUGH SHOWING RULE AMENDMENTS

Rule 22. Interpleader

~~Rule 22~~(a)~~.~~ ~~Interpleader~~Grounds.

~~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 the 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 provisions of this Rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.~~

(1) *In General.* Interpleader is a procedure where one holding money or property subject to adverse claims may seek to avoid multiple liability by joining in a single action all persons who assert or may assert claims to the money or property.

(2) *By a Plaintiff.* A plaintiff may join as defendants all persons who assert or may assert claims to the money or property.

(3) *By a Defendant.* A defendant may seek interpleader through a crossclaim or counterclaim.

(4) *Propriety of Interpleader.* Interpleader is proper even though:

(A) the claims, or the titles on which the claims depend, lack a common origin or are adverse and independent rather than identical; or

(B) the party requesting interpleader denies liability in whole or in part to any or all of the claimants.

~~Rule 22~~(b)~~.~~ Release from ~~l~~Liability~~;~~ Upon ~~d~~Deposit or ~~d~~Delivery.

A~~ny~~ party ~~invoking the~~requesting interpleader~~, as provided by subdivision~~ under (a) ~~of this Rule,~~ may move the court for an order discharging that party from liability to ~~either party,~~the claimants. ~~and upon depositing in court the amount claimed, or by delivering the property to the party entitled thereto, or into court as the court may direct, that~~ The court may discharge the party upon:

(1) the party's deposit in court of the money claimed; or

(2) the party's delivery of the property as the court directs.

(c) Relation to Other Rules. This rule supplements—and does not limit—the joinder of parties allowed by Rule 20.

CLEAN AMENDED VERSION OF RULE

Rule 22. Interpleader

(a) Grounds.

(1) ***In General.*** Interpleader is a procedure where one holding money or property subject to adverse claims may seek to avoid multiple liability by joining in a single action all persons who assert or may assert claims to the money or property.

(2) ***By a Plaintiff.*** A plaintiff may join as defendants all persons who assert or may assert claims to the money or property.

(3) ***By a Defendant.*** A defendant may seek interpleader through a crossclaim or counterclaim.

(4) ***Propriety of Interpleader.*** Interpleader is proper even though:

(A) the claims, or the titles on which the claims depend, lack a common origin or are adverse and independent rather than identical; or

(B) the party requesting interpleader denies liability in whole or in part to any or all of the claimants.

(b) Release from Liability Upon Deposit or Delivery. A party requesting interpleader under (a) may move the court for an order discharging that party from liability to the claimants. The court may discharge the party upon:

(1) the party's deposit in court of the money claimed; or

(2) the party's delivery of the property as the court directs.

(c) Relation to Other Rules. This rule supplements—and does not limit—the joinder of parties allowed by Rule 20.

Rule 24. Intervention

Rule 24(a). Intervention of right

Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Rule 24(b). Permissive intervention

Upon timely application anyone may be permitted to intervene in an action:

1. When a statute confers a conditional right to intervene.

2. When an applicant's claim or defense and the main action have a question of law or fact in common.

In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

Rule 24(c). Procedure

A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

Rule 24(d). Time to answer

If the motion to intervene is granted, the plaintiff and defendant shall be allowed a reasonable time, not exceeding twenty days, in which to answer the pleading of the intervener.

Rule 24. Intervention

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~~**Rule 24(d). Time to answer**~~

~~If the motion to intervene is granted, the plaintiff and defendant shall be allowed a reasonable time, not exceeding twenty days, in which to answer the pleading of the intervener.~~

(a) Intervention of Right. On timely motion, the court must permit a person to intervene who:

(1) is given an unconditional right to intervene by a statute; or

(2) claims an interest relating to the subject of the action, and is so situated that disposing of the action in the person's absence may as a practical matter impair or impede the person's ability to protect that interest, unless existing parties adequately represent that interest.

(b) Permissive intervention

(1) ***In General.*** On timely motion, the court may permit a person to intervene who:

(A) is given a conditional right to intervene by a statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) ***By a Government Officer or Agency.*** On timely motion, the court may permit a state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute.

(3) ***Delay or Prejudice.*** In exercising its discretion over permissive intervention, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) Procedure

(1) ***Requirements of Motion.*** A motion to intervene must:

(A) comply with Rule 7.1(a);

(B) state the grounds for intervention; and

(C) be accompanied by the pleading in intervention that sets out the claim or defense for which intervention is sought.

(2) ***Filing of Pleading in Intervention.*** Unless the court otherwise directs, an intervener shall file and serve the pleading in intervention within 10 days of an order granting the motion to intervene.

(3) ***Response to Pleading in Intervention.*** If the pleading in intervention is one to which a responsive pleading is required for a party, that party must answer or otherwise respond to the pleading in intervention within 20 days of being served with the pleading in intervention. If the pleading in intervention is one to which a responsive pleading is not required for a party, that party may answer or otherwise respond to the pleading in intervention within 20 days of being served with the pleading in intervention.

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(1) is given an unconditional right to intervene by a statute; or

(2) claims an interest relating to the subject of the action, and is so situated that disposing of the action in the person's absence may as a practical matter impair or impede the person's ability to protect that interest, unless existing parties adequately represent that interest.

(b) Permissive intervention

(1) ***In General.*** On timely motion, the court may permit a person to intervene who:

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Rule 25. Substitution of Parties

Rule 25(a). Death

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rules 4, 4.1 or 4.2, as applicable, of these rules for the service of a summons. Unless the motion for substitution is made not later than 90 days after the death is suggested upon the record by service of a statement of the fact of the death as provided herein for the service of the motion, the action shall be dismissed as to the deceased party.

(2) In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.

Rule 25(b). Death of defendant after tort action commenced

An action to recover damages for injuries to the person, or death caused by the wrongful act, default or neglect of another, shall not abate by reason of the death of the defendant, and the decedent's personal representative may be substituted as defendant. If the action is against a receiver, assignee or trustee, and such receiver, assignee or trustee dies, resigns or is removed from office, the successor in office may be substituted as defendant. The action shall thereupon proceed to judgment as if the defendant had remained alive, or the original receiver, assignee or trustee had continued in office.

Rule 25(c). Incompetency

If a party becomes incompetent, the court upon motion served as provided in subdivision (a) of this Rule may allow the action to be continued by or against the party's representative.

Rule 25(d). Transfer of interest

In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in subdivision (a) of this Rule.

Rule 25(e). Public officers; death or separation from office

1. When a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

2. A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the court may require the officer's name to be added.

Rule 25. Substitution of Parties

~~Rule 25~~(a)~~.~~ Death.

(1) ***Substitution if the Claim Is Not Extinguished.*** If a party dies and the claim is not ~~thereby~~ extinguished, the court may order substitution of the proper party~~ies~~. ~~The~~A motion ~~for substitution~~to substitute may be made by any party or by the decedent's successor~~s~~ or representatives. ~~of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rules 4, 4.1 or 4.2, as applicable, of these rules for the service of a summons. Unless~~ If the motion ~~for substitution~~ is not made ~~not later than~~within 90 days after ~~the death is suggested upon the record by~~ service of a statement noting~~of the fact of~~ the death ~~as provided herein for the service of the motion~~, the action by or against the decedent must ~~shall~~ be dismissed ~~as to the deceased party~~.

(2) ***Continuation Among the Remaining Parties.*** After a party's death, if ~~In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which~~ the ~~right sought to be enforced~~claim survives only to ~~the surviving plaintiffs~~ or ~~only~~ against the ~~surviving defendants~~remaining parties, the action does not abate~~.~~, ~~The death shall be suggested upon the record and the action shall~~but proceeds in favor of or against the ~~surviving~~remaining parties. The death should be noted on the record.

(3) ***Service of Motion.*** A motion to substitute must be served on the parties as provided in Rule 5 and on the decedent's successor or representative as provided in Rules 4, 4.1, or 4.2—as applicable.

(4) ***Statement Noting Death.*** A party or the decedent's successor or representative may file a statement noting the death of a party. The statement must identify the decedent's successor or representative if one exists and is known by the party filing the statement. The statement must be served on the parties as provided in Rule 5 and on nonparties as provided in Rules 4, 4.1, or 4.2—as applicable.

~~Rule 25(b). Death of defendant after tort action commenced~~

~~An action to recover damages for injuries to the person, or death caused by the wrongful act, default or neglect of another, shall not abate by reason of the death of the defendant, and the decedent's personal representative may be substituted as defendant. If the action is against a receiver, assignee or trustee, and such receiver, assignee or trustee dies, resigns or is removed from office, the successor in office may be substituted as defendant. The action shall thereupon proceed to judgment as if the defendant had remained alive, or the original receiver, assignee or trustee had continued in office.~~

~~Rule 25(c).~~(b) Incompetency.

If a party becomes incompetent, the court may—on~~upon~~ motion—permit ~~served as provided in subdivision (a) of this Rule may allow~~ the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

~~Rule 25(d).~~(c) Transfer of interest.

If a party's interest is transferred ~~In case of any transfer of interest~~, the action may be continued by or against ~~the original~~that party, unless the court—on~~upon~~ motion—orders the transfereed~~irects the person to whom the interest is transferred~~ to be substituted in the action or joined with the original party. ~~Service of the motion shall be made as provided in subdivision (a) of this Rule.~~ The motion must be served as provided in Rule 25(a)(3).

~~Rule 25(e).~~(d) Public ~~o~~Officers; ~~d~~Death or ~~s~~Separation from ~~o~~Office.

~~1.~~ An action does not abate w~~W~~hen a public officer who is a party ~~to an action~~ in an official capacity ~~and during its pendency~~ dies, resigns, or otherwise ceases to hold office while the action is pending.~~, the action does not abate and t~~ The officer's successor is automatically substituted as a party. Later ~~P~~proceedings ~~following the substitution shall~~ should be in the ~~name of the~~ substituted party's name, but any misnomer not affecting the parties' substantial rights ~~of the parties shall~~must be disregarded. The court may~~An~~ order ~~of~~ substitution ~~may be entered~~ at any time, but the absence of~~omission to enter~~ such an order ~~shall~~does not affect the substitution.

~~2. A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the court may require the officer's name to be added.~~

Rule 25. Substitution of Parties

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(2) ***Continuation Among the Remaining Parties.*** After a party's death, if the claim survives only to or against the remaining parties, the action does not abate, but proceeds in favor of or against the remaining parties. The death should be noted on the record.

(3) ***Service of Motion.*** A motion to substitute must be served on the parties as provided in Rule 5 and on the decedent's successor or representative as provided in Rules 4, 4.1, or 4.2—as applicable.

(4) ***Statement Noting Death.*** A party or the decedent's successor or representative may file a statement noting the death of a party. The statement must identify the decedent's successor or representative if one exists and is known by the party filing the statement. The statement must be served on the parties as provided in Rule 5 and on nonparties as provided in Rules 4, 4.1, or 4.2—as applicable.

(b) Incompetency. If a party becomes incompetent, the court may—on motion—permit the action to be continued by or against the party's representative. The motion must be served as provided in Rule 25(a)(3).

(c) Transfer of interest. If a party's interest is transferred, the action may be continued by or against that party, unless the court—on motion—orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

(d) Public Officers; Death or Separation from Office. An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded. The court may order substitution at any time, but the absence of such an order does not affect the substitution.