

**CHAPTER 2220. JOINDER OF PARTIES**

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**Rule 2226. Definitions.**

As used in this chapter

“action” means any civil action or proceeding brought in or appealed to any court of record which is subject to these rules.

**Source**

The provisions of this Rule 2226 adopted June 7, 1940, effective February 5, 1941; amended January 4, 1952, effective July 1, 1952; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (282137).

**Rule 2227. Compulsory joinder.**

(a) Persons having only a joint interest in the subject matter of an action must be joined on the same side as plaintiffs or defendants.

(b) If a person who must be joined as a plaintiff refuses to join, he or she shall, in a proper case, be made a defendant or an involuntary plaintiff when the substantive law permits such involuntary joinder.

**Source**

The provisions of this Rule 2227 adopted June 7, 1940, effective February 5, 1941; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial page (190595).

**Rule 2228. Joinder of related plaintiffs.**

(a) If an injury, not resulting in death, is inflicted upon the person of a husband or a wife, and causes of action therefor accrue to both, they shall be enforced in one action brought by the husband and the wife.

(b) If an injury, not resulting in death, is inflicted upon the person of a minor, and causes of action therefor accrue to the minor and also to the parent or parents of the minor, they shall be enforced in one action brought by the parent or parents and the child. Either parent may sue therefor in the name of both; but if the parents live apart the action shall be brought by the parent having the custody of the child and the control of its services.

**Official Note:** When the interest of a minor is involved under subdivision (b), Rule 2028(a) shall apply.

See Rule 2232(a), *infra*, as to the effect of failure to join as required by this Rule.

The amendment to Rule 2228(a) governing joinder of related plaintiffs is required by the Equal Rights Amendment, Article 1, Section 28, of the Constitution of 1968.

Prior to that amendment, the law of Pennsylvania had been that a wife could not recover for the loss of her husband's consortium. Rule 2228(a), when promulgated in 1940, was written solely in terms of injury to a wife and a cause of action accruing to the husband as a result thereof. In *Hopkins v. Blanco*, 457 Pa. 90 (1974), the Supreme Court held that "If the husband may recover for loss of consortium, to deny the wife an equal right would be invalid under the Pennsylvania Constitution".

Accordingly, Rule 2228(a) has been amended to require mandatory joinder in either case, such as, an injury to the wife and a cause of action in the husband or an injury to the husband and a cause of action in the wife.

#### Source

The provisions of this Rule 2228 adopted June 7, 1940, effective February 5, 1941; amended July 2, 1976, 6 Pa.B. 1558. Immediately preceding text appears at serial page (22343).

#### **Rule 2229. Permissive joinder.**

(a) Persons may join as plaintiffs who assert any right to relief jointly, severally, separately or in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences if any common question of law or fact affecting the rights to relief of all such persons will arise in the action.

(b) A plaintiff may join as defendants persons against whom the plaintiff asserts any right to relief jointly, severally, separately or in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences if any common question of law or fact affecting the liabilities of all such persons will arise in the action.

(c) Parties may join or be joined in the alternative although the cause of action asserted by or against any one or more of them is inconsistent with the cause of action asserted by or against any of the others so joined.

(d) A plaintiff who asserts a cause of action *ex contractu* may join as defendants all or any one or more persons alleged to be liable to the plaintiff on or by reason of the breach of the contractual obligation sued upon, regardless of the capacities in which such persons are respectively liable or whether they are primarily or secondarily liable or whether their liabilities arise from the same or separate acts or undertakings; but where the liability of any defendant is solely joint, the plaintiff shall join all other persons jointly liable with such defendant.

(e) In an action to adjudicate title to or an interest in real or personal property

(1) persons whose claims are not adverse to each other may join as plaintiffs;

(2) any person whose claim is adverse to that of the plaintiff may be joined as a defendant.

**Source**

The provisions of this Rule 2229 adopted June 7, 1940, effective February 5, 1941; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial pages (190596) to (190597).

**Rule 2230. [Rescinded].**

**Rule 2231. Effect of joinder; practice in general.**

(a) The joinder of parties shall not be deemed to unite for jurisdictional purposes amounts in controversy claimed severally, separately or in the alternative by or against the respective parties plaintiff and defendant.

(b) [Rescinded]

**Official Note:** Rule 2231(b) was rendered obsolete by the abolition of the County Court of Allegheny County and the former Municipal Court of Philadelphia County by the Constitution of 1968.

(c) The trial of an action in which parties have joined or have been joined under Rules 2228 and 2229 shall be conducted as if independent actions between such parties had been consolidated for trial.

**Official Note:** If in any case in which parties have joined or have been joined as permitted or required by these rules it would be inconvenient or prejudicial to the rights of any party to hold a common trial of all issues, the court, by virtue of its power of severance, may order the separate trial of any of the issues. Pa. R.C.P. No. 213(b).

(d) Except as otherwise provided by these rules, the joinder of parties in any action shall not affect the procedural rights which each party would have if suing or sued separately, and the verdicts and judgments entered therein shall be joint, several or separate according to the nature of the right or liability therein determined.

(e) If two or more defendants are joined under Rule 2229 (d), the plaintiff shall not be permitted to discontinue or enter a nolle prosequi or a voluntary nonsuit as to any defendant primarily liable to the plaintiff unless the plaintiff also does so as to all defendants secondarily liable to the plaintiff for the default of such defendant.

(f) Rescinded.

(g) Rescinded.

**Official Note:** See Rule 226(b) for the entry of a directed verdict and Rule 230.1(b) for the entry of a compulsory nonsuit.

(h) Rescinded.

**Official Note:** See Rule 226(b) for the entry of a directed verdict and Rule 230.1(c) for the entry of a compulsory nonsuit.

**Source**

The provisions of this Rule 2231 adopted June 7, 1940, effective February 5, 1941; amended June 23, 1975, effective immediately, 5 Pa.B. 1819; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended May 30, 2001, effective July 1, 2001, 31 Pa.B. 3184. Immediately preceding text appears at serial pages (255315) to (255316).

**Rule 2232. Defective joinder; change of parties.**

(a) The cause of action of a person required to join in an action as a party plaintiff by Rule 2228 shall be barred by failing to join therein if the defendant has given such person such notice of the pendency of the action as the court by local rule or special order shall direct.

(b) Joinder of unnecessary parties is not ground for dismissal of an action. After notice to all other parties, a party may be dropped by order of the court whenever the party has been misjoined or no claim for relief is asserted against the party in the action by any other party.

(c) At any stage of an action, the court may order the joinder of any additional person who could have joined or who could have been joined in the action and may stay all proceedings until such person has been joined. The court in its discretion may proceed in the action although such person has not been made a party if jurisdiction over the person cannot be obtained and the person is not an indispensable party to the action.

(d) When a plaintiff joins two or more defendants and the evidence does not justify a recovery against all of them, the court shall enter a nonsuit or direct a verdict in favor of any defendant not shown to be liable either jointly, severally or separately, and the action shall continue and determine which of the remaining defendants are jointly, severally or separately liable with the same effect as though the defendants found to be liable were the only ones joined. As in other cases the court may enter judgment notwithstanding the verdict in favor of or against any of such defendants.

(e) In any action to enforce a joint liability, the entry of a judgment against one or more of the defendants shall not bar recovery in the same action against the other defendants or bar recovery in a separate action against the defendants named in the first action but not served.

(f) In any action to enforce a joint and several liability, the entry of a judgment against one or more of the defendants shall not bar recovery against the other defendants in the same or separate actions or bar recovery in a separate action against any other person jointly and severally liable with the defendants.

(g) In a separate action instituted under the authority or subdivision (e) or (f) of this rule, the person against whom a judgment has been previously entered shall not again be joined as a party.

**Source**

The provisions of this Rule 2232 adopted June 7, 1940, effective February 5, 1941; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial pages (190598) to (190599).

**Rule 2248. Acts of Assembly not suspended.**

(a) These rules shall not be deemed to suspend or affect any Act of Assembly requiring the joinder in an action of a specified number or percentage of electors, taxpayers, stockholders, property owners or other persons.

**Official Note:** Illustrations of the type of statutes referred to by this subdivision are the Act of June 25, 1919, P. L. 581, Art. IV, § 9(b), 53 P. S. § 12200, requiring twenty qualified electors of a city of the first class to join in a petition to impeach municipal officers; the Act of March 10, 1949, P. L. 30, Art. II, § 242.1, added June 23, 1965, P. L. 139, § 1, as amended, 24 P. S. § 2-242.1, authorizing a majority of the resident taxpayers of an independent school district to file a petition for its abolition; and the Acts of July 28, 1953, P. L. 723, § 1931, 16 P. S. § 4931 and August 9, 1955, P. L. 323, § 1731, as amended, 16 P. S. § 1731, authorizing appeals by ten or more taxpayers from the report of the auditors or the controller of a county of the second to eighth class. The mandatory joinder requirements of these statutes are not affected by these rules.

(b) These rules shall not be deemed to suspend or affect the following Acts of Assembly:

(1) Section 18 of the Act approved May 16, 1923, P. L. 207, No. 153, 53 P. S. § 7186.

**Official Note:** This section relates to proceedings to enforce a municipal claim.

(2) Section 8411 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. 8411.

**Official Note:** This section relates to the appointment of a guardian for a war veteran.

(3) Section 7540 of the Judicial Code, 42 Pa.C.S. § 7540.

**Official Note:** This section relates to declaratory judgment proceedings.

**Source**

The provisions of this Rule 2248 adopted June 7, 1940, effective February 5, 1941; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (40101) and (15879) to (15880).

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**Rule 2249. Effective date; pending actions.**

These rules shall become effective on the fifth day of February 1941, but shall not apply to actions pending at the time. Adopted June 7, 1940. Eff. Feb. 5, 1941.

**Rule 2250. [Rescinded].**

**Official Note:** Former Rule 2250 suspended statutory provisions which were subsequently repealed.

**Source**

The provisions of this Rule 2250 rescinded June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (15880) and (146733).

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