

**SUPREME COURT OF PENNSYLVANIA  
CIVIL PROCEDURAL RULES COMMITTEE**

**Proposed Recommendation No. 240**

**Proposed Amendment of Rule 1020 Governing  
Pleading More Than One Cause of Action**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1020 governing the pleading of more than one cause of action be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than **October 2, 2009** to:

**Karla M. Shultz, Esquire  
Counsel  
Civil Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 6200  
P.O. Box 62635  
Harrisburg, Pennsylvania 17106-2635**

**or E-Mail to  
civil.rules@pacourts.us**

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

**Rule 1020. Pleading More Than One Cause of Action. Alternative Pleading.  
Failure to Join. Bar.**

(a) The plaintiff may state in the complaint more than one cause of action cognizable in a civil action against the same defendant. Each cause of action and any special damage related thereto shall be stated in a separate count containing a demand for relief.

Note: Rule 102 provides that the singular includes the plural and the plural includes the singular.

(b) If persons join as plaintiffs under Rules 2228, 2229(a) or (e), the complaint shall state the cause of action, any special damage, and the demand for relief of each plaintiff in a separate count, preceded by a heading naming the parties to the cause of action therein set forth.

(c) Causes of action and defenses may be pleaded in the alternative.

(d)(1) If a transaction or occurrence gives rise to more than one cause of action heretofore asserted in assumpsit and trespass, against the same person, including causes of action in the alternative, they shall be joined in separate counts in the action against any such person. Failure to join a cause of action as required by this subdivision shall be deemed a waiver of that cause of action as against all parties to the action.

Note: Mandatory joinder is limited to related causes of action heretofore asserted in assumpsit and trespass. There is no mandatory joinder of related causes of action in equity.

See Rule 2226 et seq. governing joinder of parties.

See Rule 213(a) and (b) governing the consolidation and severance of causes of action.

(2) When personal injuries to a person and damage to that person's property arise from the same tortious act, the person who sustained both personal injuries and property damage must seek recovery for both in a single action. If a separate action is instituted for each category of damage, a judgment rendered in one such action bars recovery in the other action.

Note: Subdivision (d)(2) applies the prohibition against splitting causes of action to a subrogee because a subrogee derives his or her right to recovery from the person who sustained both personal injuries and property damage. This subdivision supersedes *State Farm Mutual Automobile Ins. Co. v. Ware's Van Storage*, 953 A.2d 568 (Pa. Super. 2008), which permitted a person injured in an automobile accident to pursue his personal injury claims in one lawsuit and the insurance company of the injured person to pursue a subrogated property damage claim in a second lawsuit.

## **Explanatory Comment**

The Civil Procedural Rules Committee is proposing the amendment of Rule 1020(d) so that the prohibition against splitting causes of action applies to a subrogee. The proposed amendment would require a single lawsuit so that a party is not required to defend multiple lawsuits for personal injuries and property damage by the same person for the same tortious act. In addition, the proposed amendment is intended to protect the trial courts from being encumbered by multiple actions arising from the same transaction or occurrence, and to create certainty that once a claim is settled additional litigation cannot be instituted.

By the Civil Procedural  
Rules Committee

Stewart L. Kurtz  
Chair