Table of Contents

Alabama Rules of Civil Procedure Annotated (Continued)

Chapter I Scope of Rules—One Form of Action Rule 1 Scope of Rules

Chapter II Commencement of Action; Service of Process, Pleadings, Motions, and Orders

- Rule 5.1 Privacy Protection for Court Filings
- 5.1.1 In general
- Rule 6 Time
- 6.1 In general and applicability to commencement of actions
- 6.2 Enlargement of time
- 6.4 Notice of hearing—5 days normally

Chapter III Pleadings and Motions

- Rule 7 Pleadings Allowed; Forms of Motions
- Rule 8 General Rules of Pleading
- 8.3 Short and plain statement—Igbal/Twombly not yet adopted
- Rule 9 Pleading Special Matters
- 9.10 Fictitious party practice—Ignorance of identity
- 9.11 Fictitious party practice—Sufficiency of complaint
- 9.12 Fictitious party practice—Due diligence
- Rule 10 Form of Pleadings
- 10.2 The caption
- Rule 11 Signing of Pleadings, Motions or Other Papers
- 11.1 In general
- Rule 12 Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
- 12.1 Time for motion or answer (30 days; 10 days if motion to dismiss denied)
- 12.2 Lack of subject—Matter jurisdiction
- 12.4 Venue defects
- 12.7 Failure to state a claim—Iqbal/Twombly not adopted
- 12.13 Waiver of defenses—Rule 12(h)
- 12.16 Conversion to motion for summary judgment
- 12.18 Motion to compel arbitration
- 12.19 Abatement—Ala.Code § 6-5-440
- Rule 13 Counterclaim and Cross-Claim
- 13.4 Counterclaims—Compulsory (may be barred if not pled) and permissive
- 13.7 Compulsory counterclaim—Exceptions
- 13.15 Appealed actions from district court to circuit court limitation on claimed amounts
- Rule 15 Amended and Supplemental Pleadings
- 15.6 Amendment refused
- 15.7 Relation back—In general
- 15.9 Relation back and fictitious parties
- 15.9.5 Ability to correct misnamed defendant [New]
- Rule 16 Pretrial Conferences; Scheduling; Management
- 16.1 In general

Table of Contents

Chapter IV Parties

- Rule 17 Parties Plaintiff and Defendant; Capacity
- 17.2 Real party in interest
- Rule 19 Joinder of Persons Needed for Just Adjudication
- 19.1 In general
- 19.2 Factors considered
- 19.3 Joinder—Examples
- Rule 21 Misjoinder and Non-Joinder of Parties
- 21.5 Severance
- Rule 22 Interpleader
- 22.1 In general—Two stages of interpleader action
- Rule 23 Class Actions
- 23.1 In general and outline of the rule—Based upon 1966
 Federal Rule with some amendments made in 2021
 [Retitled]
- 23.3 Commonality—Rule 23(a)(2)
- 23.4 Typicality—Rule 23(a)(3)
- 23.5 Adequacy—Rule 23(a)(4) (must be part of class; must not have significant conflicts; must have adequate counsel)
- 23.8 Rule 23(b)(2)—Injunctive or declaratory relief sought by a class against a defendant
- 23.15 Appealability of class certification determinations (Rule 23(c)(1))
- 23.18 Notice to the class
- 23.20 Settlement
- 23.22 Comparison with federal rule
- Rule 23.1 Derivative Actions by Shareholders
- 23.1.1 In general
- 23.1.5 Required allegations—Demand on board and excuses for failure to obtain action from directors [Retitled]
- Rule 24 Intervention
- 24.2 Intervention of right
- 24.3 Permissive intervention (often liability insurance and split trial)
- 24.4 Time
- Rule 25 Substitution of Parties
- 25.2 Suggestion of death—Once filed, six month deadline for substitution

Chapter V Depositions and Discovery

- Rule 26 General Provisions Governing Discovery
- 26.2.5 Amended Rule 26—Proportionality [New]
- 26.3 Privileged matters
- 26.5 Protective orders
- 26.5.5 Ability of Court to Allocate Costs [New]

- 26.8 Work product—Anticipation of litigation
- 26.19 Electronically stored information
- 26.20 Health Insurance Portability and Accountability Act Confidentiality ("HIPAA")
- 26.21 Birmingham Differential Case Management Plan [Retitled]
- Rule 30 Depositions Upon Oral Examination
- 30.1 In general
- 30.7 Remote Depositions—Rule 30(b)(7) and Rule 30(b)(8) [Retitled]
- 30.9 Comparison with federal rule
- Rule 33 Interrogatories to Parties
- Rule 34 Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes
- 34.3 Response to request
- Rule 36 Requests for Admission
- 36.5 Amendment or withdrawal of admissions
- Rule 37 Failure to Make Discovery: Sanctions
- 37.1 Introduction
- 37.2 Total failure to respond versus unsatisfactory responses
- 37.4.5 Alabama ESI Safeharbor vs. New Federal Standard on ESI sanctions and spoliation generally
- 37.4.6 Action for Evidence Destruction [New]

Chapter VI Trials

- Rule 38 Jury Trial of Right
- 38.5 Waiver—Multiple parties and the necessity for multiple demands
- 38.6 Waiver—Amendment—Revival of right to jury
- 38.8 Waiver—Contractual provisions
- Rule 39 Trial by Jury or by the Court
- Rule 41 Dismissal of Actions
- 41.6 Involuntary dismissal—Want of prosecution
- 41.7 Involuntary dismissal—Failure to comply with rules or orders
- 41.7.5 Involuntary dismissal—On the Merits [New]
- 41.8 Involuntary dismissal—Effect of
- Rule 42 Consolidation: Separate Trials
- 42.2 Consolidation of actions
- 42.3 Separate trials
- Rule 43 Evidence
- 43.3 Testimony in open court
- Rule 45 Subpoena
- 45.2.5 Alabama Uniform Interstate Depositions and Discovery Act (Ala. Code § 12-21-400)

Table of Contents

45.5.5 Subpoenas—How served 45.10.2 Electronically Stored Information ("ESI")