

Aggravation Aggregation

“The law on aggregation . . . is in a very unsatisfactory state. The traditional rules in this area evolved haphazardly with very little reasoning. They serve no apparent policy.”

Charles Alan Wright & Mary Kay Kane,
Law of Federal Courts (2002)

One plaintiff with multiple claims against one defendant. See Rule 18.

A v. B

- 1) \$60,000 breach of contract
- 2) \$20,000 tort

Aggregation is proper, even if claims are unrelated. The amount in controversy here is more than \$75,000.

Multiple plaintiffs each assert a claim against one defendant. See Rule 20.

A

- 1) \$40,000 personal injury
 - 2) \$15,000 property damage
- v. C**

and

B \$30,000 personal injury

Aggregation is not proper, even if claims are related. No jurisdiction.

Exception: Plaintiffs have a common and undivided interest.

A and B, who own land and a house as tenants in common, join as plaintiffs in action against C for damages of \$100,000 allegedly caused by C's blasting activities on his adjoining land.

Amount in controversy requirement is satisfied.

Supplemental Jurisdiction

A \$80,000

v. C

B \$10,000

No aggregation to permit jurisdiction over B's claim, even if it is related to A's claim (which is jurisdictionally proper).

What result under 28 U.S.C. § 1367?

A's claim is within the court's original jurisdiction. If both claims arise out of a "common nucleus of operative fact," see *UMW v. Gibbs*, then they "form part of the same case or controversy under Article III" as required by § 1367(a). Thus, under paragraph (a), B's claim is within the court's supplemental jurisdiction unless paragraph (b) provides otherwise. Paragraph (b) prohibits supplemental jurisdiction in diversity cases over persons "joined as plaintiffs under Rule 19" or "seeking to intervene as plaintiffs under Rule 24." That is not the situation here, as A and B are joining as plaintiffs under Rule 20. Accordingly, the court has supplemental jurisdiction over B's claim. See *Exxon Mobil v. Allapattah Services*, p. 753.

One plaintiff with claims against multiple defendants. See Rule 20.

A v. B \$50,000

C \$40,000

D \$30,000

E \$20,000

F \$10,000

\$150,000

No aggregation. The jurisdictional amount must be satisfied as to each defendant, even if the claims are related.

Supplemental jurisdiction

One plaintiff has claims against multiple defendants, but a claim against one defendant exceeds \$75,000.

A v. B \$80,000

C \$40,000

D \$30,000

E \$20,000

F \$10,000

\$180,000

Under the traditional view, only A's claim against B would be jurisdictionally proper. What result under 28 U.S.C. § 1367?

B's claim is within the court's original jurisdiction. Even if the claims against the other defendants are sufficiently related to B's claim so as to satisfy paragraph (a) § 1367, paragraph (b) expressly prohibits supplemental jurisdiction. Paragraph (b) states that the district courts "shall not have supplemental jurisdiction over claims by plaintiffs *against persons made parties under Rule 14, 19, 20, or 24.*" (emphasis added)

Exception: plaintiff sues multiple defendants with a common and undivided interest.

A owns a house on property that adjoins land owned by B and C as tenants in common. B and C conduct blasting activities on their land that damages A's house. A sues B and C for \$100,000. Jurisdiction is proper.

Exception: joint and several liability

After an auto wreck, A sues B and C, the other drivers, for \$100,000. Jurisdiction is proper if defendant's liability is joint and several. This is not really aggregation at all, but one claim as a matter of tort law. Joint and several liability means each defendant is potentially liable to plaintiff for the full amount – in this case, \$100,000. Jurisdiction is proper.