

with the provision in this rule that the judgment may itself vest title, 6 Tenn. Ann. Code (Williams, 1934), §10594; 2 Conn. Gen. Stat. (1930), §5455; N.M. Stat. Ann. (Courtright, 1929), §117-117; 2 Ohio Gen. Code Ann. (Page, 1926), §11590; and England, Supreme Court of Judicature Act (1925), §47.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The language of Rule 70 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 71. Enforcing Relief For or Against a Nonparty

When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

NOTES OF ADVISORY COMMITTEE ON RULES—1937

Compare [former] Equity Rule 11 (Process in Behalf of and Against Persons Not Parties). Compare also *Terrell v. Allison*, 21 Wall. 289, 22 L. Ed. 634 (U.C., 1875); *Farmers' Loan and Trust Co. v. Chicago and A. Ry. Co.*, 44 Fed. 653 (C.C. Ind., 1890); *Robert Findlay Mfg. Co. v. Hygrade Lighting Fixture Corp.*, 288 Fed. 80 (E.D. N.Y., 1923); *Thompson v. Smith*, Fed. Cas. No. 13,977 (C.C. Minn., 1870).

NOTES OF ADVISORY COMMITTEE ON RULES—1987
AMENDMENT

The amendments are technical. No substantive change is intended.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The language of Rule 71 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

TITLE IX. SPECIAL PROCEEDINGS

Rule 71.1. Condemning Real or Personal Property

(a) **APPLICABILITY OF OTHER RULES.** These rules govern proceedings to condemn real and personal property by eminent domain, except as this rule provides otherwise.

(b) **JOINDER OF PROPERTIES.** The plaintiff may join separate pieces of property in a single action, no matter whether they are owned by the same persons or sought for the same use.

(c) **COMPLAINT.**

(1) *Caption.* The complaint must contain a caption as provided in Rule 10(a). The plaintiff must, however, name as defendants both the property—designated generally by kind, quantity, and location—and at least one owner of some part of or interest in the property.

(2) *Contents.* The complaint must contain a short and plain statement of the following:

- (A) the authority for the taking;
- (B) the uses for which the property is to be taken;
- (C) a description sufficient to identify the property;
- (D) the interests to be acquired; and
- (E) for each piece of property, a designation of each defendant who has been joined as an owner or owner of an interest in it.

(3) *Parties.* When the action commences, the plaintiff need join as defendants only those persons who have or claim an interest in the property and whose names are then known. But before any hearing on compensation, the plaintiff must add as defendants all those persons who have or claim an interest and whose names have become known or can be found by a reasonably diligent search of the records, considering both the property's character and value and the interests to be acquired. All others may be made defendants under the designation "Unknown Owners."

(4) *Procedure.* Notice must be served on all defendants as provided in Rule 71.1(d), whether they were named as defendants when the action commenced or were added later. A defendant may answer as provided in Rule 71.1(e). The court, meanwhile, may order any distribution of a deposit that the facts warrant.

(5) *Filing; Additional Copies.* In addition to filing the complaint, the plaintiff must give the clerk at least one copy for the defendants' use and additional copies at the request of the clerk or a defendant.

(d) **PROCESS.**

(1) *Delivering Notice to the Clerk.* On filing a complaint, the plaintiff must promptly deliver to the clerk joint or several notices directed to the named defendants. When adding defendants, the plaintiff must deliver to the clerk additional notices directed to the new defendants.

(2) *Contents of the Notice.*

(A) *Main Contents.* Each notice must name the court, the title of the action, and the defendant to whom it is directed. It must describe the property sufficiently to identify it, but need not describe any property other than that to be taken from the named defendant. The notice must also state:

- (i) that the action is to condemn property;
- (ii) the interest to be taken;
- (iii) the authority for the taking;
- (iv) the uses for which the property is to be taken;
- (v) that the defendant may serve an answer on the plaintiff's attorney within 21 days after being served with the notice;
- (vi) that the failure to so serve an answer constitutes consent to the taking and to the court's authority to proceed with the action and fix the compensation; and
- (vii) that a defendant who does not serve an answer may file a notice of appearance.

(B) *Conclusion.* The notice must conclude with the name, telephone number, and e-mail address of the plaintiff's attorney and an address within the district in which the action is brought where the attorney may be served.

(3) *Serving the Notice.*

(A) *Personal Service.* When a defendant whose address is known resides within the United States or a territory subject to the administrative or judicial jurisdiction of the United States, personal service of the notice (without a copy of the complaint) must be made in accordance with Rule 4.