

Civil Procedure II Outline

- I. Joinder
 - A. Rule 18(a): Joinder of claims
 - 1. A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or 3rd party claim, may join, either as independent or as alternate claims, as many claims, legal, equitable, or maritime, as the party has against an opposing party.
 - 2. Permits, but doesn't make compulsory, joinder of claims.
 - 3. Principles of former adjudication often require a P to join related claims, esp. when they arise out of the same incident.
 - 4. Advantages
 - a. Allows a single suit to adjudicate multiple claims against multiple parties
 - 5. Disadvantages
 - a. Litigation can become intricate, and considerable procedural skirmishing can occur long before the merits come into view, as parties dispute whether a given effort at joinder is permitted.
 - B. Rule 42(b)
 - 1. Judges are permitted to sever claims for trial convenience.
 - C. Joinder & Jurisdiction
 - 1. Rarely matter in state ct.
 - 2. Fed. Ct. is important b/c fed. cts. have limited jurisdiction.
 - 3. Supplemental jurisdiction §1367
 - a. Basis of original jurisdiction
 - b. Whether P or D seeks to invoke supplemental jurisdiction.
 - c. Rule which authorizes joinder over that which supplemental jurisdiction is sought.
 - D. Rule 13: Counterclaims & Crossclaims
 - 1. Permissive c-claims 13(b)
 - a. May be made but there must be an independent basis for jurisdiction.
 - b. The underlying assumption of a permissive c-claim is that it doesn't arise from a common nucleus of operative facts, etc...Therefore, by