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Civil Procedure - Interpleader - Right to Jury Trial

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RECENT DECISIONS

CIVIL PROCEDURE—INTERPLEADER—RIGHT TO JURY TRIAL—Decedent brought suit against applicant for personal injuries sustained in a collision but died before judgment. His administrator continued the suit under a statute which allowed survival of the action only if the injuries did not cause death.[1] His widow filed an action under the wrongful death statute,[2] alleging that the injuries from the collision caused death. Applicant sought to have the administrator and the widow interpleaded to adjudicate between themselves the cause of death. On appeal from a judgment dismissing applicant's bill, *held,* reversed. The interpleader statute[3] authorizes such interpleading to prevent applicant's exposure to double recovery for a single liability. The proceeding being "equitable" in nature, there is no right to a jury determination of the cause of death.[4] *Plaza Express Co. v. Galloway,* (Mo. 1955) 280 S.W. (2d) 17.

It is certainly both permissible and desirable to allow interpleader on the facts of the principal case so as to avoid the possibility of two separate juries holding the applicant liable in both actions upon inconsistent findings as to the same fact.[5] Although the court recognized that the statute has materially modified former equitable interpleader so as to permit the applicant's bill,[6] it went on to label the entire proceeding as essentially "equitable" in nature. Under the typical state constitutional guarantee that "the right of trial by jury as heretofore enjoyed shall remain inviolate,"[7] the effect of this labeling is to deny a right to determination of fact issues by a jury where such a right would have existed if the claimants' original actions had remained separate.[8] This is improper. Under code pleading,

1 Mo. Rev. Stat. (1949) §537.020.

2 Id., §§537.070 to 537.090.

3 Id., §507.060 [substantially identical to rule 22 (1) of the Federal Rules of Civil Procedure, 28 U.S.C. (1952)].

4 Three judges dissented on the issue of the right to a jury trial.

5 Separate juries might arrive at different results as to the cause of death in the respective actions by the two claimants. The court in the principal case pointed out that neither proceeding would be res judicata as to the other despite the identical issue in common, since the widow and the administrator were different parties, and nothing appeared to show that the widow was beneficially interested in the administrator's action.

6 Under equity practice unmodified by statute, strict interpleader was precluded if the applicant was interested in the fund, debt, or duty which was the subject matter of the action. Pope v. Missouri Pacific Ry. Co., (Mo. 1915) 175 S.W. 955. A bill in the nature of interpleader could be brought by an interested applicant, but only if he could demonstrate grounds for equitable jurisdiction independent of the double vexation. Dorn v. Fox, 61 N.Y. 264 (1874). See the classic statement of the prerequisites to interpleader in POMEROY, EQUITY JURISPRUDENCE, 4th ed., §1322 (1919), and the discussion of them by Chafee, "Modernizing Interpleader," 30 YALE L. J. 814 (1921). Cf. Chafee, "Federal Interpleader Since the Act of 1936," 49 YALE L. J. 377 (1940), also discussing federal rule 22 (see note 3 supra).

7 Mo. CONST., art. 3, §22 (a).

8 Seemingly an action for a declaratory judgment as to the cause of death would also have been available for relief from exposure to double liability. Mo. Rev. Stat. (1949)

the civil form of action is neither equitable nor legal.[9] Yet the former distinctions remain important for settling constitutional jury rights. No problems in determining the right to a jury arise when the modern "civil action" presents issues which would have been clearly within the exclusive jurisdiction of either the law judge or the chancellor under former practice. But the proceeding involved in the principal case embraced both a request for interpleading, which would have been within the chancellor's jurisdiction, and also the issue of the cause of death, which would have been within the jurisdiction of the law judge and jury. Judicial determination of the latter issue cannot be deemed an instance of the chancellor's power to render complete relief once jurisdiction has been obtained, since equity would not have taken jurisdiction at all in this case.[10] The expanded statutory interpleader is neither "legal" nor "equitable," but *sui generis*.[11] The problem of jury rights cannot be solved satisfactorily by picking a label for the entire action when "legal" and "equitable" issues are joined under modern combined procedure. Rather, an attempt should be made to preserve jury determination of issues which call for legal relief and which typically would have been tried by a jury.[12] An evaluation of evi-

§§527.010 to 527.140 (substantially the Uniform Declaratory Judgments Act). See BORCHARD, DECLARATORY JUDGMENTS, 2d ed., 363-365, 396, 397 (1941), on the relation of interpleader to declaratory judgments and declarations of facts. Such a proceeding would not have precluded the claimants' right to a jury trial. State ex rel. United States Fire Ins. Co. v. Terte, 351 Mo. 1089, 176 S.W. (2d) 25 (1943); Crollard v. Northern Life Ins. Co., 240 Mo. App. 355, 200 S.W. (2d) 375 (1947). In 13 A.L.R. (2d) 777 at 782 (1950), the general rule is stated "that if defendant would have a right to a jury trial if the action was brought by him he would also have it in a declaratory judgment action by the plaintiff."

9 "There shall be one form of action to be known as 'civil action.'" Mo. Rev. Stat. (1949) §506.040.

10 "No case is cited authorizing a tort-feasor to require persons, each claiming the sole right to damages for the same tort [to be interpleaded . . .]. The remarkable situation which would result would be far more productive of injustice than it will be to require defendant to take his chances on two juries coming to the same conclusion on the facts." Pope v. Missouri Pacific Ry. Co., note 6 supra, at 957.

11 In Crollard v. Northern Life Ins. Co., note 8 supra, at 367, involving the right to jury trial in declaratory judgment actions, the Kansas City Court of Appeals stated: "A proceeding for a declaratory judgment under our statute is *sui generis* and is not of itself strictly either legal or equitable, although its historical affinity is equitable." It is suggested that the same is true of the statutory interpleader action.

12 In Lee v. Conran, 213 Mo. 404 at 412, 111 S.W. 1151 (1908), the Missouri court held: "If the issues joined entitle the parties to an ordinary judgment at law, . . . the parties are entitled to a trial by a jury; but if the issues tendered are equitable in their nature and call for equitable relief, then the cause is triable before the chancellor." But see McCaskill, "Jury Demands in the New Federal Procedure," 88 UNIV. PA. L. REV. 315 (1940), disapproving attempts to predicate jury rights upon the nature of the issues alone, since often the same facts or issues could have appeared in either a law or an equity action, with the character of the action determining jury rights. This being true does not, however, aid in characterizing a purely statutory action, nor does it supply a label for modern proceedings which join actions for both "equitable" and "legal" relief arising out of the same transaction.

dence and a finding as to whether particular injuries did or did not cause death are typically within the province of a jury, and a jury determination of this issue could have been granted in the principal case without complicating the action.[13] In fact, under the majority's holding, a jury trial must still be had for the negligence and damage issues in an action at law by the claimant prevailing in the present action. In view of the constitutional mandate for preservation of jury trial and the interests of efficient judicial administration, the better practice in this situation would have been to settle all of the issues among the parties in the single satutory action, with a jury passing on the cause of death as well as the negligence and damage issues.

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[13] When "legal" and "equitable" issues are joined, and there is a fact question common to both, a troublesome problem may be presented as to whether the jury must try the legal issue first and thereby foreclose the judge's determination of the fact. The action involved in the principal case presented no such difficulty, however.