

PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

(-) Designation of Parties. The party commencing the action shall be known as the plaintiff, and the opposite party as the defendant.

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in the party's own name without joining the party for whose benefit the action is brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Minors or Incapacitated Persons.

(1) When a minor is a party the minor shall appear by guardian, or if the minor has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint a guardian ad litem. The guardian shall be appointed:

(i) when the minor is plaintiff, upon the application of the minor, if the minor be of the age of 14 years, or if under the age, upon the application of a relative or friend of the minor;

(ii) when the minor is defendant, upon the application of the minor, if the minor be of the age of 14 years, and applies within the time the minor is to appear; if the minor be under the age of 14, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the minor.

(2) When an incapacitated person is a party to an action that person shall appear by guardian, or if that person has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed:

(i) when the incapacitated person is plaintiff, upon the application of a relative or friend of the incapacitated person;

(ii) when the incapacitated person is defendant, upon the application of a relative or friend of such incapacitated person, such application shall be made within the time the defendant is to appear. If no such application be made within the time above limited, application may be made by any party to the action.

[Adopted effective September 1, 1984; Amended effective September 1, 1989; November 1, 2021; September 1, 2022.]