

Judicial Procedure; District Court

CHAPTER 540

PARTIES TO ACTIONS

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540.01 ONE FORM OF ACTION; PARTIES HOW STYLED. The distinction between actions at law and suits in equity, and the forms of such actions and suits, are abolished. There shall be in this state but one form of action for the enforcement or protection of private rights and the redress of private wrongs. This shall be called a civil action, and the party complaining shall be styled the plaintiff, and the adverse party the defendant.

[R. L. s. 4052] (9164)

540.02 REAL PARTY IN INTEREST TO SUE; WHEN ONE MAY SUE OR DEFEND FOR ALL. Except when otherwise expressly provided by law, every action shall be prosecuted in the name of the real party in interest; but this section shall not authorize the assignment of a thing in action not arising out of contract; provided, that when the question is one of common or general interest to many persons, or when those who might be made parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.

[R. L. s. 4053] (9165)

540.03 ACTION BY ASSIGNEE; SET-OFF SAVED; EXCEPTION. If a thing in action be assigned, an action thereon by the assignee shall be without prejudice to any set-off or defense existing at the time or before notice of the assignment; but this section does not apply to negotiable paper, transferred in good faith and upon good consideration before due.

[R. L. s. 4054] (9166)

540.04 REPRESENTATIVE MAY SUE WITHOUT JOINING THE CESTUI QUI TRUST. An executor, administrator, or guardian, a trustee of an express trust, or a person expressly authorized by statute to sue, may sue without joining with him the person for whose benefit the action is brought. A person with whom, or in whose name, a contract is made for the benefit of another is a trustee of an express trust, within the meaning of this section.

[R. L. s. 4055] (9167)

540.05 MARRIED WOMEN MAY SUE OR BE SUED ALONE. In cases where the husband, except for the marriage relation, would not be a necessary party, a married woman may sue and be sued as if unmarried and without joining her husband. If a woman marry while a party to a pending action, she shall thereafter be designated by her married name.

[R. L. s. 4056] (9168)

540.06 INFANTS AND INSANE PERSONS. Subdivision 1. **Guardians ad litem.** When an infant or insane person is a party, he must appear by guardian,

who shall be appointed by the court in which the action is prosecuted, or by a judge thereof. Such guardian shall be a resident of this state and file with the clerk his consent to such appointment, before the same shall take effect, and in case of the plaintiff such consent shall be so filed before the issuing of the summons in the action. Before he shall receive any money or other property of the party, such guardian shall also file a bond, as security therefor, in such form and with such sureties as the court shall prescribe and approve.

Subdivision 2. **Appointment; notice.** The appointment of such guardians shall be made as follows:

(1) If the party be an infant of the age of 14 years, and under no legal disability except his minority, upon the application of such infant;

(2) In all other cases, upon the application of the general guardian, or of a relative or friend of such party.

(3) When no such application has been made by or in behalf of a party defendant before answer or default, then upon the application of the plaintiff or his attorney. In such cases, if the defendant is in default, the court shall allow his guardian ad litem a reasonable time to answer.

(4) In proceedings commenced otherwise than by the service of summons, application may be made forthwith by the petitioner or moving party with regard to any infant or incompetent person affected by the proceeding.

(5) When application is properly made by an infant in his own behalf, or by the general guardian of an infant or incompetent person, no notice shall be required. In other cases, notice of such application, designating the time and place of hearing, shall be given to the general guardian of such party or person or to such relative, adviser or friend as the court shall designate. The court may also require that like notice be given to such party or person himself. The court shall specify the time and manner of giving such notices.

[R. L. ss. 4057, 4058; 1945 c. 20 s. 1] (9169, 9170)

540.07 PARENT OR GUARDIAN MAY SUE FOR SEDUCTION. A father, or, in case of his death or desertion of his family, the mother, may maintain an action for the seduction of the daughter, and the guardian for the seduction of the ward, though such daughter or ward is not living with, or in the service of, the plaintiff at the time of the seduction or afterwards, and there is no loss of service.

[R. L. s. 4059] (9171)

540.08 PARENT OR GUARDIAN MAY SUE FOR INJURY TO CHILD OR WARD; BOND; SETTLEMENT. A father, or, in case of his death or desertion of his family, the mother, may maintain an action for the injury of a minor child, and a general guardian may maintain an action for the injury of his ward. If no such action is brought by the father or mother, an action for such injury may be maintained by a guardian ad litem, either before or after the death of such parent. Before any such parent shall receive any money or other property in settlement or compromise of any action so brought, or in satisfaction of any judgment obtained therein, such parent shall file a bond as security therefor, in such form and with such sureties as the court shall prescribe and approve. Upon petition of such parent, the court may, in its discretion, order that in lieu of such bond, any money so received shall be invested in bonds or other securities issued by the United States of America, which shall be deposited for safe-keeping pursuant to an order of the Court, or shall be deposited as a savings account in a banking institution or trust company, together with a copy of the court's order and the evidence of deposit shall be filed with the Clerk of Court, subject to the order of the court, and no settlement or compromise of any such action shall be valid unless the same shall be approved by a judge of the court in which such action is pending.

[R. L. s. 4060; 1907 c. 58; 1929 c. 113; 1943 c. 416 s. 1] (9172)

540.09 DESERTED WIFE MAY SUE AND DEFEND IN HUSBAND'S NAME. When a husband has deserted his family, the wife may prosecute or defend, in his name, any action which he might have prosecuted or defended, and shall have the same powers and rights therein as he might have had.

[R. L. s. 4061] (9173)

540.10 JOINDER OF PARTIES TO INSTRUMENT. Persons severally liable upon the same obligation or instrument, including parties to bills of exchange and promissory notes, and sureties on the same instrument, may all or any of them be included in the same action, at the option of the plaintiff.

[R. L. s. 4062] (9174)

540.11 SURETY MAY BRING ACTION. An action may be brought against two or more persons for the purpose of compelling one to satisfy a debt due to the other, for which the plaintiff is bound as surety.

[R. L. s. 4063] (9175)

540.12 ACTION NOT TO ABATE BY DEATH; TORTS. No action shall abate by reason of the death or disability of a party, or the transfer of his interest, if the cause of action continues or survives. In such cases the court, on motion, may substitute the representative or successor in interest, or, in cases of transfer of interest, may allow the action to proceed in the name of the original party. After a verdict, decision, or report of a referee, fixing the amount of damages for a wrong, such action shall not abate by the death of any party thereto.

[R. L. s. 4064] (9176)

540.13 EXEMPTIONS OF LEGISLATIVE MEMBERS AND EMPLOYEES. No member, officer, or employee of either branch of the legislature shall be liable in a civil action on account of any act done by him in pursuance of his duty as such legislator.

[R. L. s. 4065] (9177)

540.14 ACTIONS AGAINST RECEIVERS; TRIAL; JUDGMENT, HOW SATISFIED. Any receiver, assignee, or other person appointed by a court to hold or manage property under its direction may be sued on account of any of his acts or transactions in carrying on the business connected with such property without prior leave of court.

Such action may be brought in any county in which it could have been brought against the person or corporation represented by such receiver or other person, shall be tried in the same manner and subject to the same rules of procedure, and any judgment recovered therein against such receiver or other person shall be paid by him as a part of the expenses of managing such property.

[R. L. ss. 4066, 4067] (9178) (9179)

540.15 ASSOCIATES SUED AS PARTNERS. When two or more persons transact business as associates and under a common name, whether such name comprise the names of such persons or not, they may be sued by such common name, and the summons may be served on one or more of them. The judgment in such case shall bind the joint property of all the associates, the same as though all had been named as defendants.

[R. L. s. 4068] (9180)

540.16 BRINGING IN ADDITIONAL PARTIES. Subdivision 1. **Court may order.** When it shall be made to appear, upon motion of the plaintiff in any pending action, or of any defendant in such action who has alleged a counter-claim or other ground for affirmative relief, that in order to a full determination of such action another should have been made a party defendant or plaintiff therein, the court, upon such terms as may be proper, shall order such additional party to be brought in, and may stay other proceedings in the action for such time as may be necessary for that purpose.

Subdivision 2. **Contents of order; how served.** The order, in addition to the other proper directions thereof, shall briefly recite the grounds of such motion, direct that the complaint, or the answer, as the case may be, with such amendment thereof as may be necessary as against such added party, be filed with the clerk, prescribe the time within which the order shall be served, and require the party so brought in to answer or reply within 20 days after such service. The manner of service shall be the same as is prescribed by law for the service of a summons, and when service is made the action shall proceed, by or against all the parties, as though all had originally been joined.

[R. L. ss. 4069, 4070] (9181) (9182)

540.17 JOINDER OF CONNECTING CARRIERS. Subdivision 1. **Joinder.** When any personal property shall be transported by two or more connecting common carriers into or through this state and shall become injured or damaged during transportation, the consignor, consignee or owner thereof, or his assignee, in an action to recover damages for such injury, may join as parties defendant one or more of such connecting common carriers with the last or delivering common carrier.

Subdivision 2. **Pleading and proof.** In any such action brought in any court of this state against the last or delivering carrier and any one or more connecting common carriers, it shall be sufficient for the plaintiff to allege in his complaint and prove upon the trial of such action, that such personal property was in good order and condition when delivered to the initial carrier, that the same was transported from the initial point of shipment to its destination by two or more connecting common carriers, including the defendants, that it was in whole or in part injured or damaged on arrival at destination, and the general nature and amount of such injury or damage thereto, and such proof shall be prima facie evidence that such injury or damage was caused by the negligence of all the defendants and the amount of loss or damage caused to such property by the negligence of each and every one of the defendants shall be determined by the jury upon the trial of the action from all the evidence in the case, and a verdict rendered accordingly.

[1907 c. 466 ss. 1, 2] (9183, 9184)