

## Judicial Procedure, District Court CHAPTER 540

### PARTIES TO ACTIONS

- |        |   |         |   |
|--------|---|---------|---|
| 540.03 | Action by assignee; set-off saved; exception.               | 540.14  | Actions against receivers; trial; judgment, how satisfied.      |
| 540.05 | Married woman may sue or be sued alone.                     | 540.15  | Associates sued as partners.                                    |
| 540.07 | Parent or guardian may sue for seduction.                   | 540.151 | Suability; common name.   |
| 540.08 | Injury to child or ward; suit by parent or guardian.        | 540.152 | Service of process on unions, groups or associations.           |
| 540.09 | Deserted spouse may sue and defend in absent spouse's name. | 540.153 | Exceptions.   |
| 540.11 | Surety may bring action.                                    | 540.154 | Actions against unions, groups or associations, where brought.  |
| 540.12 | Action not to abate by death; torts.                        | 540.17  | Joinder of connecting carriers.                                 |
| 540.13 | Exemptions of legislative members and employees.            | 540.18  | Damage by minor; responsibility of parent, guardian, and minor. |

NOTE: For rules of civil procedure, district court, see Volume 9.

**540.01** [Repealed, 1974 c 394 s 12]

**540.02** [Repealed, 1974 c 394 s 12]

#### **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.

**History:** *RL s 4054 (9166)*

**540.04** [Repealed, 1974 c 394 s 12]

#### **540.05 MARRIED WOMAN 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.

**History:** *RL s 4056 (9168)*

**540.06** [Repealed, 1974 c 394 s 12]

#### **540.07 PARENT OR GUARDIAN MAY SUE FOR SEDUCTION.**

A parent may maintain an action for the seduction of the son or daughter, and the guardian may maintain an action for the seduction of the ward, though the son or 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.

**History:** *RL s 4059; 1981 c 31 s 14 (9171)*

#### **540.08 INJURY TO CHILD OR WARD; SUIT BY PARENT OR GUARDIAN.**

A parent may maintain an action for the injury of a minor son or daughter. A general guardian may maintain an action for an injury to the ward. A guardian of a dependent, neglected, or delinquent child, appointed by a court having jurisdiction,

# MINNESOTA STATUTES 1984

## 540.08 PARTIES TO ACTIONS

9540

may maintain an action for the injury of the child. If no action is brought by the father or mother, an action for the injury may be brought by a guardian ad litem, either before or after the death of the parent. Before a parent receives property as a result of the action, the parent shall file a bond as the court prescribes and approves as security therefor. In lieu of this bond, upon petition of the parent, the court may order that the property received be invested in securities issued by the United States, which shall be deposited pursuant to the order of the court, or that the property be invested in a savings account, savings certificate, or certificate of deposit, in a bank, savings and loan association, or trust company, or an annuity or other form of structured settlement, subject to the order of the court. A copy of the court's order and the evidence of the deposit shall be filed with the clerk of the court. No settlement or compromise of the action is valid unless it is approved by a judge of the court in which the action is pending.

**History:** *RL s 4060; 1907 c 58 s 1; 1929 c 113 s 1; 1943 c 416 s 1; 1951 c 347 s 1; 1961 c 346 s 1; 1969 c 660 s 2; 1981 c 31 s 15; 1981 c 313 s 25 (9172)*

## 540.09 DESERTED SPOUSE MAY SUE AND DEFEND IN ABSENT SPOUSE'S NAME.

When a spouse has deserted the family, the deserted spouse may prosecute or defend, in the name of the absent spouse, any action which the absent spouse might have prosecuted or defended, and shall have the same powers and rights therein as the absent spouse might have had.

**History:** *RL s 4061; 1981 c 31 s 16 (9173)*

## 540.10 [Repealed, 1974 c 394 s 12]

## 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.

**History:** *RL 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. 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.

**History:** *RL s 4064; 1974 c 394 s 7 (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.

**History:** *RL 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.

**History:** *RL s 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.

**History:** *RL s 4068 (9180)*

NOTE: The words "and the summons may be served on one or more of them" superseded by the Rules of Civil Procedure, Rules 4.03(b), 86.01 and 86.02.

#### **540.151 SUABILITY; COMMON NAME.**

When two or more persons associate and act, whether for profit or not, under the common name, including associating and acting as a labor organization or employer organization, whether such common name comprises the names of such persons or not, they may sue in or be sued by such common name, and the summons may be served on an officer or a managing agent of the association. The judgment in such cases shall accrue to the joint or common benefit of and bind the joint or common property of the associates, the same as though all had been named as parties to the action. Any money judgment against a labor organization or employer organization shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

**History:** *1947 c 527 s 1; 1955 c 597 s 1*

#### **540.152 SERVICE OF PROCESS ON UNIONS, GROUPS OR ASSOCIATIONS.**

The transaction of any acts, business or activities within the state of Minnesota by any officer, agent, representative, employee or member of any union or other groups or associations having officers, agents, members or property without the state on behalf of the union or other groups or associations or any of its members or affiliated local unions shall be deemed an appointment by the union or other groups or associations of the secretary of state of the state of Minnesota to be the true and lawful attorney of the union or other groups or associations, upon whom may be served all legal processes or notices in any action or proceeding against or involving the union or other groups or associations growing out of any acts, business or activities within the state of Minnesota resulting in damage or loss to person or property or giving rise to any cause of action under the laws of the state of Minnesota or to any matters or proceedings arising under the Minnesota Labor Relations Act. Such acts, business or activities shall be a signification of the agreement of the union or other groups or associations and its members that any process or notice in any action, matter or proceeding against or involving it, which is so served, shall be of the same legal force and validity as if served upon the union or

# MINNESOTA STATUTES 1984

## 540.152 PARTIES TO ACTIONS

9542

other groups or associations and its members personally. Service of process or notice shall be made by filing a copy thereof in the office of the secretary of state, together with payment of a fee of \$15 and together with an affidavit stating that no officer or managing agent of the union or other group or association has been found in this state and setting forth an address to which the service shall be forwarded. The service shall be sufficient service upon the union or other groups or associations and its members. Notice of service and a copy of the process or notice shall, within ten days thereafter, be sent by mail by the person who caused it to be served on the union or other groups or associations at its last known address and an affidavit of compliance with the provisions of this chapter shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending.

**History:** 1947 c 527 s 2; 1955 c 597 s 2; 1955 c 820 s 47; 1980 c 541 s 8; 3Sp1981 c 2 art 1 s 72; 1984 c 618 s 57

## 540.153 EXCEPTIONS.

Sections 540.151 to 540.153 shall not apply to any person or labor organization subject to the Federal Railway Labor Act, U.S.C.A. Title 45, Chapter 8.

**History:** 1947 c 527 s 3

## 540.154 ACTIONS AGAINST UNIONS, GROUPS OR ASSOCIATIONS, WHERE BROUGHT.

An action in a state court against an association referred to in section 540.151 shall be brought in district court in the county in which the organization maintains its principal office in this state or in the district court of the county in which the acts complained of occurred.

**History:** 1955 c 597 s 3

## 540.16 [Repealed, 1974 c 394 s 12]

## 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.

Subd. 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.

**History:** 1907 c 446 s 1,2 (9183, 9184)

# MINNESOTA STATUTES 1984

9543

PARTIES TO ACTIONS 540.18

## **540.18 DAMAGE BY MINOR; RESPONSIBILITY OF PARENT, GUARDIAN, AND MINOR.**

Subdivision 1. The parent or guardian of the person of a minor who is under the age of 18 and who is living with the parent or guardian and who willfully or maliciously causes injury to any person or damage to any property is jointly and severally liable with such minor for such injury or damage to an amount not exceeding \$500, if such minor would have been liable for such injury or damage if he had been an adult. Nothing in this subdivision shall be construed to relieve such minor from personal liability for such injury or damage. The liability provided in this subdivision is in addition to and not in lieu of any other liability which may exist at law. Recovery under this section shall be limited to special damages.

Subd. 2. This section shall not apply to persons having custody or charge of any minor under the authority of the welfare or corrections department of the state.

**History:** *Ex1967 c 41 s 1-3; 1969 c 803 s 1; 1980 c 580 s 22*