

Rule 17. Plaintiff and Defendant; Capacity; Public Officers

(a) REAL PARTY IN INTEREST.

(1) *Designation in General.* An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought:

- (A) an executor;
- (B) an administrator;
- (C) a guardian;
- (D) a bailee;
- (E) a trustee of an express trust;
- (F) a party with whom or in whose name a contract has been made for another's benefit; and

(G) a party authorized by statute.

(2) *Action in the Name of the United States or the District of Columbia for Another's Use or Benefit.* When an applicable statute so provides, an action for another's use or benefit must be brought in the name of the United States or the District of Columbia.

(3) *Joinder of the Real Party in Interest.* The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

(b) CAPACITY TO SUE OR BE SUED. Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;

(2) for a corporation, by the law under which it was organized; and

(3) for all other parties, by the law of the District of Columbia, except that:

(A) a partnership or other unincorporated association with no such capacity under the District of Columbia's laws may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and

(B) 28 U.S.C. §§ 754 and 959 (a) govern the capacity of a receiver appointed by a United States court to sue or be sued.

(c) MINOR OR INCOMPETENT PERSON.

(1) *With a Representative.* The following representatives may sue or defend on behalf of a minor or an incompetent person:

- (A) a general guardian;
- (B) a committee;
- (C) a conservator; or
- (D) a like fiduciary.

(2) *Without a Representative.* A minor or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.

(d) PUBLIC OFFICER'S TITLE AND NAME. A public officer who sues or is sued in an official capacity may be designated by official title rather than by name, but the court may order that the officer's name be added.

COMMENT TO 2017 AMENDMENTS

This rule is substantially similar to *Federal Rule of Civil Procedure 17*, as amended in 2007, but maintains the following local distinctions: 1) subsection (a)(2) includes suits in the name of the District of Columbia for the use or benefit of another; 2) "District of Columbia" is substituted for "state where the court is located" in subsection (b)(3); 3) "District of Columbia's laws" is substituted for "that state's law" in subsection (b)(3)(A); and 4) "in a United States court" is struck from subsection (b)(3)(B) to indicate that a federally appointed receiver can properly sue or be sued in the Superior Court in accordance with *28 U.S.C § 959*.

In accordance with the 2007 federal amendments, former Rule 25(d)(2) has been moved to section (d) of this rule.

COMMENT

Identical to *Federal Rule of Civil Procedure 17* except for 4 changes: (1) Revision of the 2nd sentence in section (a) thereof to comprehend statutes authorizing suits by the District of Columbia for the use or benefit of another; (2) substitution of "District of Columbia" for "state in which the district court is held" in section (b); (3) substitution of "District of Columbia" for "such state" in the 1st exception clause of section (b); and (4) deletion of the limiting phrase "in a court of the United States" from the 2nd exception clause in section (b). This last modification was effected so as to insure that the suing or suable capacity of federally appointed receivers, who may sue and be sued in state courts, shall be determined as nearly as possible in conformity with applicable federal law under *28 U.S.C. §§ 754 and 959(a)*.