

Rule 17. Plaintiff and Defendant; Capacity

(a) REAL PARTY IN INTEREST.

(1) *Designation in General.* An action must be brought 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) a personal representative;
- (B) a guardian;
- (C) a trustee;
- (D) a party with whom or in whose name a contract has been made for another's benefit; and
- (E) 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) *Curing Defect.* The court may not dismiss an action for failure to bring in the name of the real party in interest until, after an objection, a reasonable time has been allowed for curing the defect. After revision, 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.* Unless otherwise permitted by law, 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. If a substantial question of incompetency is raised, the court must give the parties an opportunity to be heard, and the court may appoint a guardian ad litem—or issue another appropriate order—to protect the person who is unrepresented.

COMMENT TO 2018 AMENDMENTS

This rule has been modified to more closely conform to the civil rule while maintaining practices and procedures distinct to domestic relations actions. For instance, Rule 17(c)(2) allows a minor to sue without a next friend or guardian ad litem where permitted by law. D.C. Code § 16-914 (a-3) (2018 Supp.) permits a parent who is under 18 years of age to initiate a custody proceeding; it also permits initiation of a custody proceeding by the parent, guardian, or other legal representative of a minor parent. The amendment makes appointment of a guardian ad litem discretionary if a substantial question of incompetency is raised about a party who does not have a representative. Rule 17(c)(2) requires appointment of a guardian for a minor or incompetent person only when the minor or incompetent person is a party.