

# Judicial Procedure, District Court

## CHAPTER 540

### PARTIES TO ACTIONS

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NOTE: For rules of civil procedure, district court, see Appendix 8.

**540.01** [Superseded, Rules of Civil Procedure, Rules 2.01, 86.01 and 86.02]

**540.02** [Superseded, Rules of Civil Procedure, Rules 17.01, 23.01, 86.01 and 86.02]

**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**540.04** [Superseded, Rules of Civil Procedure, Rules 17.01, 86.01 and 86.02]

**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**540.06** [Superseded, Rules of Civil Procedure, Rules 17.02, 86.01 and 86.02]

**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 INJURY TO CHILD OR WARD; SUIT BY PARENT OR GUARDIAN.** A father may maintain an action for the injury of his minor child. When such father has deserted his family or is dead the mother of such minor child may maintain the action. When custody of the injured child has been granted to either parent by a court having jurisdiction, that parent may maintain the action. A general guardian may maintain an action for the injury of his ward. A guardian of a dependent, neglected, or delinquent child, appointed by a court having jurisdiction, may maintain an action for the injury of such child. If no such 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 such parent. Before any such parent receives any property as a result of any such action, he shall file such 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 so received shall be invested in securities issued by the United States, which shall be deposited pursuant to the order of the court, or such property shall be deposited as or added to a savings account in a bank, savings and loan association, or trust company, subject to the order of the court. A copy of the court's order and the evidence of such deposit

shall be filed with the clerk of such court. No settlement or compromise of any such action is valid unless it is approved by a judge of the court in which the action is pending.

[*R L 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*] (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** [Superseded, Rules of Civil Procedure, Rules 20.01, 86.01 and 86.02]

**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)

NOTE: To the extent inconsistent, superseded by the Rules of Civil Procedure, Rules 25.01, 25.03, 86.01 and 86.02.

**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 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.

[*R L 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.

[*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 such union or other groups or associations or any of its members or affiliated local unions shall be deemed an appointment by such union or other groups or associations of the secretary of state of the State of Minnesota to be the true and lawful attorney of such union or other groups or associations, upon whom may be served all legal processes or notices in any action or proceeding against or involving said union or other groups or associations growing out of such 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, and such acts, business or activities shall be a signification of the agreement of said union or other groups or associations and its members that any such 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 such union or other groups or associations and its members personally. Service of such 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 \$5 and together with an affidavit that no officer or managing agent of said union or other group or association has been found in this state and thereupon such service shall be sufficient service upon said union or other groups or associations and its members; and notice of such service and a copy of the process or notice shall, within ten days thereafter, be sent by mail by the person who caused the same to be served to such 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.

[1947 c 527 s 2; 1955 c 597 s 2; 1955 c 820 s 47]

**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.

[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.

[1955 c 597 s 3]

**540.16** [Superseded, Rules of Civil Procedure, Rules 13.08, 14.01, 14.02, 19.02, 86.01 and 86.02]

**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.

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