

<p style="text-align: center;">IV. PARTIES</p> <p style="text-align: center;">Rule 17. Parties Plaintiff and Defendant; Capacity</p>	<p style="text-align: center;">TITLE IV. PARTIES</p> <p style="text-align: center;">Rule 17. Plaintiff and Defendant; Capacity; Public Officers</p>
<p>(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in that person's own name without joining the party for whose benefit the action is brought; and when a statute of the United States so provides, an action for the use or benefit of another shall be brought in the name of the United States. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.</p>	<p>(a) Real Party in Interest.</p> <p>(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:</p> <p>(A) an executor;</p> <p>(B) an administrator;</p> <p>(C) a guardian;</p> <p>(D) a bailee;</p> <p>(E) a trustee of an express trust;</p> <p>(F) a party with whom or in whose name a contract has been made for another's benefit; and</p> <p>(G) a party authorized by statute.</p> <p>(2) Action in the Name of the United States for Another's Use or Benefit. When a federal statute so provides, an action for another's use or benefit must be brought in the name of the United States.</p> <p>(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.</p>

<p>(b) Capacity to Sue or Be Sued. The capacity of an individual, other than one acting in a representative capacity, to sue or be sued shall be determined by the law of the individual's domicile. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized. In all other cases capacity to sue or be sued shall be determined by the law of the state in which the district court is held, except (1) that a partnership or other unincorporated association, which has no such capacity by the law of such state, may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right existing under the Constitution or laws of the United States, and (2) that the capacity of a receiver appointed by a court of the United States to sue or be sued in a court of the United States is governed by Title 28, U.S.C., Sections 754 and 959(a).</p>	<p>(b) Capacity to Sue or Be Sued. Capacity to sue or be sued is determined as follows:</p> <ol style="list-style-type: none"> (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 state where the court is located, except that: <ol style="list-style-type: none"> (A) a partnership or other unincorporated association with no such capacity under that state's law 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 in a United States court.
<p>(c) Infants or Incompetent Persons. Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant 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 shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person.</p>	<p>(c) Minor or Incompetent Person.</p> <ol style="list-style-type: none"> (1) With a Representative. The following representatives may sue or defend on behalf of a minor or an incompetent person: <ol style="list-style-type: none"> (A) a general guardian; (B) a committee; (C) a conservator; or (D) a like fiduciary. (2) Without a Representative. A minor or an 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.
	<p>(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.</p>

COMMITTEE NOTE

The language of Rule 17 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 17(d) incorporates the provisions of former Rule 25(d)(2), which fit better with Rule 17.