

2012 Kansas Statutes

60-217. Parties; capacity. (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 conservator;
- (E) a bailee;
- (F) a trustee of an express trust;
- (G) a receiver;
- (H) a party with whom or in whose name a contract has been made for another's benefit; and
- (I) a party authorized by statute.

(2) *Action in the name of the state of Kansas for another's use or benefit.* When a statute so provides, an action for another's use or benefit must be brought in the name of the state of Kansas.

(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) *Claim accruing under law of another state.* A claim for relief that has accrued under the laws of another state or territory may be sued upon by the person or persons authorized to bring and maintain an action on the claim in the state or territory where it arose. When the law of the state or territory where a claim for relief for death arose authorizes the action to be prosecuted by an administrator or executor, then the action may also be maintained by an administrator or executor appointed under the laws of this state.

(c) *Minor or incapacitated person.* (1) *With a representative.* The following representatives may sue or defend on behalf of a minor or an incapacitated person:

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

(2) *Without a representative.* A minor or an incapacitated 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 incapacitated 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.

History: L. 1963, ch. 303, 60-217; L. 1965, ch. 354, § 2; L. 1986, ch. 215, § 5; L. 2010, ch. 135, § 84; July 1.