

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1277

Amending Civil Rule 17 to make
the language gender neutral.

IT IS ORDERED:

1. Civil Rule 17 is amended to read as follows:

**Rule 17. Parties Plaintiff and Defendant —
Capacity.**

(a) **Real Party in Interest.** Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, 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 his that person's own name without joining ~~with him~~ the party for whose benefit the action is brought; and when a statute of the state so provides, an action for the use or benefit of another shall be brought in the name of the state. 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.

(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 ~~his~~ 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. A partnership or other unincorporated association may sue or be sued in its common name.

(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. ~~If an~~ An infant or incompetent person who does not have a duly appointed representative ~~he~~ may sue by ~~his~~ 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.

(d) **Unknown Parties.** All persons who are or may be interested in the subject matter of an action relating to real property in the state whose names cannot be ascertained after diligent inquiry may be made parties by being named and described as unknown claimants or unknown owners, or as unknown heirs, devisees, legatees, or assigns of any deceased person who may have been interested in the subject matter of the action. If it cannot be ascertained after diligent inquiry whether a

person who is or may be interested in the subject matter of the action is alive or dead, or what disposition ~~he~~ may have been made of ~~his~~ the person's interests, or where ~~he~~ the person resides if alive, ~~such~~ the person and everyone claiming under ~~him~~ the person may be made a party by ~~his being named~~ naming the person and adding to such name "or ~~his~~ the unknown heirs, devisees, legatees, or assigns of [the person's name]."

DATED: May 15, 1997

EFFECTIVE DATE: July 15, 1997

/s/
Chief Justice Compton

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Bryner