

38. When a defendant is beyond the limits of the colony, if he have an attorney or agent authorized to transact his affairs generally, and to defend actions on his behalf, the summons may, by leave of the Court or a Judge, be served upon such attorney or agent, subject to such terms as the Court or a Judge may think right to impose.

SERVICE GENERALLY.

39. In all cases where the defendant is an aboriginal native of New Zealand a translation into the Maori language of the summons and statement of claim shall be served upon him.

40. In any case not provided for by these rules service shall be effected in such manner as the Court or a Judge shall direct.

CHAPTER II.

PARTIES TO AN ACTION

41. All persons may be joined as plaintiffs, in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who shall not be found entitled to relief, unless the Court, in disposing of the costs of the action, shall otherwise direct.

42. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable according to their respective liabilities, without any amendment.

43. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the Court or a Judge may make such order as may appear just, to prevent any defendant from being embarrassed, or put to expense, by being required to attend any proceedings in such action in which he may have no interest.

44. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

45. When in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that in such action the question as to which (if any) of the defendants is liable, and to what extent, may be determined as between all parties to the action.

46. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the Court or a Judge may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to, or in lieu of, the previously existing parties thereto.

47. Married women, infants, idiots, and lunatics may sue and defend by a guardian *ad litem*, admitted for that purpose by the Court or a Judge. Married women may also, by leave of the Court or a Judge, sue or defend without their husbands, and without a guardian *ad litem*, on giving security for costs.

48. Before any person shall be allowed to act as a guardian *ad litem*, under the last preceding rule, he shall first be admitted for that purpose by the Court or a Judge upon a petition signed by him.

49. The guardian *ad litem* shall be a person not interested in the result of the action, and, in the case of a lunatic, shall be his committee, if one have been appointed, unless the Court or Judge see fit to allow some other person to act as guardian *ad litem*.

50. The summons and statement of claim may be served in manner hereinafter provided, upon a married woman, an infant, an idiot, or a lunatic, although a guardian *ad litem* has not been admitted to defend for such married woman, infant, lunatic, or idiot, but no further step shall be taken in the action until a guardian *ad litem* has been admitted.

51. If no application is made for admission as guardian *ad litem* to any defendant who is a married woman, an infant, an idiot, or a lunatic, within five days after service of the summons, the Court or a Judge, on the application of the plaintiff, may order that a solicitor of the Court do act as guardian *ad litem* of such defendant, and such defendant shall be liable to pay to the solicitor so appointed his costs of defending the action: Provided that, in the case of a lunatic defendant, the Court or a Judge may order his committee, if one have been appointed, to act as guardian *ad litem*.

52. A solicitor, appointed under the last preceding rule, may, by leave of the Court or a Judge, decline to continue the defence of the action unless he be prepaid by the defendant for whom he has been appointed to act the amount of all necessary disbursements.

53. The guardian *ad litem* may be removed by the Court upon sufficient cause being shown.

54. The guardian *ad litem* shall be liable for costs, and will not be allowed to retire without giving security for the costs already incurred, if such security be required by the opposite party: Provided that a solicitor appointed guardian *ad litem*, under Rule 51, shall not be so liable.

55. In case of the death, or retirement, or removal of a guardian *ad litem*, a fresh guardian shall be appointed in the same manner as the original guardian *ad litem*: Provided that a guardian *ad litem* shall not be permitted to retire without leave of the Court.

56. When an action has been commenced in the name of an infant, and he, upon coming of age, shall elect to go on with it, all subsequent proceedings shall be carried on in his own name, and in such case he will be liable to all the costs of the action in the same manner as if he had commenced it after coming of age.

57. When there are numerous parties having the same interest in an action, one or more of such parties may sue, or be sued, or may be authorized by the Court to defend in such action on behalf of