

RULE 7 – PARTNERSHIPS

Partners may sue or be sued in firm name

- (1) Two or more persons claiming to be entitled, or alleged to be liable, as partners may sue or be sued in the name of the firm in which they were partners at the time when the alleged right or liability arose.

Service on firm

- (2) Service is effected upon a firm by leaving a copy of the document to be served either with a person who was a partner at the time the alleged right or liability arose or with a person at a place of business of the firm who appears to manage or control the partnership business there.

Appearance

- (3) An appearance by a partnership shall be in the name of the firm, but a partner or a person served as a partner may file an appearance and defend in the person's own name, whether or not named in the originating process.

Affidavit naming partners

- (4) Where a partnership is a party to a proceeding, any other party may deliver a notice requiring one of the partners to deliver within 10 days an affidavit setting out the names and addresses of all persons who were partners when the alleged right or liability arose.
- (5) Where the affidavit requested under subrule (4) is not delivered, the court may order delivery.

Execution against partnership or partners

- (6) Where an order is made against a firm, execution to enforce the order may issue against any property of the firm.
- (7) Subject to subrule (8), where an order is made against a firm, execution to enforce the order may issue against any person who
 - (a) entered an appearance in the person's own name in the proceeding as a partner,
 - (b) having been served with the originating process as a partner, failed to enter an appearance in the proceeding,
 - (c) admitted in a pleading or affidavit that the person is a partner, or
 - (d) was adjudged to be a partner.

- (8) Where a party who has obtained an order against a firm claims that a person, who is not a person described in subrule (7), is liable to satisfy the order as being a member of the firm, the party may apply to the court for leave to issue execution against that person.
- (9) Where the person against whom an application under subrule (8) is made disputes liability, the court may order that the liability of the person be determined in any manner in which an issue or question in an action may be determined.

Action against person carrying on business in a name other than the person's own

- (10) A person carrying on business in a name or style other than the person's own name may be sued in that name or style as if it were the name of a firm, and this rule applies as though the person were a partner and the name in which the person carries on business were the name of that firm.