

(50) That the alleged cause of action did not accrue within _____ years (state the period of limitation applicable to the case) before this suit.

A plea that "the alleged cause of action did not accrue within three years" is sufficient although declaration contains several counts. Limitations need not be pleaded separately to each count. *Wiley v. Heaps*, 89 Md. 45; *Bullen v. Ridgely*, 1 H. & J. 104.

A plea of limitations not stating when cause of action accrued, but only that plaintiff became of age at a certain time and did not bring his action within three years thereafter, is insufficient. *Perkins v. Turner*, 1 H. & McH. 400.

Plea "that the judgment in this action was recovered more than twelve years before the issuing of the *sci. fa.* thereon in this action" is sufficient. While a plea of limitations is received with strictness, it need not be in words of statute. *Brooks v. Preston*, 106 Md. 703. And see *Wallace v. Schaub*, 81 Md. 597; *State v. Green*, 4 G. & J. 381. *Cf.* *Beans v. Hamilton*, 3 Gill, 275.

The plea of limitations cannot be amended. (See sec. 47.) *Griffin v. Moore*, 143 Md. 246; *Kunkel v. Spooner*, 9 Md. 462; *State v. Green*, 4 G. & J. 381; *Wall v. Wall*, 2 H. & G. 79.

A plea of limitations will be stricken out if not filed within time fixed by rule of court. *Washington, etc., Co. v. State*, 19 Md. 241; *Kunkel v. Spooner*, 9 Md. 462. And see *Williams v. Banks*, 19 Md. 23. *Cf.* *Stockett v. Sasser*, 8 Md. 374; *Mitchell v. Sellman*, 5 Md. 376; *Newcomer v. Keedy*, 9 Gill, 263; *Nelson v. Bond*, 1 Gill, 218.

Plea of limitations only enures to benefit of party who pleads it. *Young's Estate*, 3 Md. Ch. 462; *Dixon v. Dixon*, 1 Md. Ch. 271.

As to limitations, see art. 57.

(51) That before this action he satisfied and discharged the plaintiff's claim by payment.

Where payment is pleaded, evidence is admissible to show part payment. When a plea of payment of portions of plaintiff's claim is permissible, and when plea of payment can only be set up to whole claim. *Rohr v. Anderson*, 51 Md. 215; *Hardey v. Coe*, 5 Gill, 189.

(52) That the plaintiff is indebted to the defendant in an amount equal to (or greater than) the plaintiff's claim, for (insert the cause of set-off as in a declaration) which amount the defendant is willing to set-off against the plaintiff's claim.

As to set-off, see secs. 16 and 17.

(53) That after the alleged claims accrued, and before suit, plaintiff, by deed, released the defendant therefrom.

(54) That at the circuit court for _____ county, _____ term, the plaintiff recovered judgment against the defendant for the sum of _____ dollars and _____ cents, and _____ dollars for costs; and that said judgment was rendered on the same cause of action mentioned in the plaintiff's declaration, and is still a subsisting judgment.

A plea of "*res adjudicata*," held defective; requisites of such plea; the defense may be set up under the general issue. *Brooke v. Gregg*, 89 Md. 237.

(55) That he was discharged as an insolvent debtor by the circuit court for _____ county (or court of common pleas), on the _____ day of _____, and that the alleged claim accrued before the filing of his petition.

See art. 47, sec. 27.

(56) That he applied by petition as an insolvent debtor to the circuit court for _____ county (or court of common pleas), on the _____ day of _____, and the proceedings under the petition are still pending; and that the alleged claim accrued before the filing of his petition.