

Insane person, for whom committee had been appointed, should be made party to suit to rescind insurance policy for misrepresentation. *Life Ins. Co. v. Hartle*, 165 Md. 127. See notes to art. 75, sec. 153.

An. Code, 1924, sec. 161. 1912, sec. 146. 1904, sec. 137. 1888, sec. 124. Rule 14.

168. Upon return of process as served, or upon proof of due publication of the order of publication as against non-resident defendants, the court shall, in case of infant or non-sane defendant, on application of the plaintiff, or any other party concerned, by order, either require the legal guardian or committee of the infant, or non-sane defendant (if there be such guardian or committee within the jurisdiction of the court) to appear, answer and defend for such party, or appoint a guardian *ad litem* to answer and defend the suit for such party. And in appointing guardians *ad litem*, no person shall be appointed who may have any interest whatever involved in the suit adverse to that of the party so under disability. The court or judge thereof may in any case, where it may be deemed necessary, appoint a solicitor to appear and defend for any infant or non-sane defendant. All commissions for taking answers or to plead shall be and they are hereby abolished.

Where an alleged lunatic is a non-resident, and a copy of the petition to declare her insane was served upon her by the order of a county judge in New York and before the petition was filed here, no sufficient service is had upon her. This section referred to in construing sec. 129—see notes thereto. *Willis v. Hodson*, 79 Md. 329.

A fee of a solicitor for infants appointed under this section, upheld. *De Bearn v. Winans*, 115 Md. 152.

See notes to sec. 167.

An. Code, 1924, sec. 162. 1912, sec. 147. 1904, sec. 138. 1888, sec. 125. Rule 9.

169. All infants and other persons under any disability to sue, may sue by their guardian or committee, if any, or by their *prochein ami*; subject, however, to such orders as the court or judge thereof may direct for the protection of infants and other persons; but before the name of any person shall be used in any suit to be instituted as next friend of any infant or other party, or as relator in any information, such person shall sign a written authority to the solicitor for that purpose, and such authority shall be filed with the bill or other proceeding.

This section applies to persons *non compos*. Where the interest of a *non compos* involved in litigation is in conflict with that of his committee, the court will appoint a next friend to conduct such litigation; notice to the committee. *In re Paca*, 140 Md. 51.

This section referred to in deciding that the orphans' court may remove a next friend. *Reichard v. Izer*, 95 Md. 466.

In suit by child against its father, failure to file written authority of next friend to solicitor immaterial, and costs in case should be paid by father. *Yost v. Yost*, 172 Md. 135.

Cited but not construed in *Sloan v. Safe Deposit Co.*, 73 Md. 244.

See art. 72A.

An. Code, 1924, sec. 164. 1912, sec. 149. 1904, sec. 140. 1888, sec. 127.

170. Upon service of process, or notice given by publication, as the case may be, the adult defendants, not being insane, shall appear and file their answer, plea or demurrer, to the bill or petition, within the time allowed by this article, or by the terms of the order of publication, or special order for the extension of time; and in default of appearance, or of answer, plea or demurrer, after appearance within the time allowed, the plaintiff may, at his election, obtain an order as of course, that the bill be taken *pro confesso* as against such defendants; and thereupon the cause shall be proceeded with *ex parte* as against the defendants so in fault; and the matter of the bill or petition may be decreed by the court or judge thereof