

## **Order-28 Suits by or against Military 2 [or Naval] men 3 [or Airmen]**

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### **1. Officers, soldiers, sailors or airmen who cannot obtain leave may authorize any person to sue or defend for them :-**

(1) Where any officer, <sup>1</sup>[soldier] <sup>2</sup>[sailor or airman] actually <sup>3</sup>[serving under the Government in <sup>4</sup>[such] capacity is a party to suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

(2) The authority shall be in writing and shall be signed by the officer, <sup>1</sup>[soldier <sup>2</sup>[sailor] or airman] in the presence of (a) his commanding officer, or the next subordinate officer, if the party is himself the commanding officer, or (b) where the officer, <sup>7</sup>[soldier, <sup>2</sup>[sailor] or airman] is serving in military, <sup>2</sup>[naval], <sup>5</sup>[or air force] staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in Court.

(3) When so filed the counter-signature shall be sufficient proof that the authority was duly executed, and that the officer, <sup>5</sup>[soldier <sup>2</sup> [sailor] or airman] by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

1. Subs. by Act 10 of 1927., for "or soldier".

2. Ins. by Act 35 of 1934, Sec. 2 and Sch.
3. Subs. by the A.O., 1937, (or "serving the Government").
4. Subs. by Act 35 of 1934, Sec. 2 and Schedule for "military or air force.
7. Ins. by Act 10 of 1927, Sec. 2 and Sch. I.

**2. Person so authorized may act personally or appoint pleader :-**

Any person authorized by an officer, <sup>1</sup>[soldier, <sup>1</sup>[sailor] or airman] to prosecute or defend suit in his stead may prosecute or defend it in person in the same manner as the officer, <sup>1</sup>[soldier, <sup>1</sup>[sailor] or airman] could do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer <sup>1</sup>[soldier, <sup>1</sup>[sailor] or airman].

1. Ins. by Act 10 of 1927, Sec. 2 and Sch. I.

**3. Service on person so authorized, or on his pleader, to be good service :-**

Processes served upon any person authorized by an officer, <sup>1</sup>[soldier <sup>2</sup> [sailor] or airman] under rule I or upon any pleader appointed as aforesaid by such person shall be as effectual as if they had been served on the party in person.

1. Ins. by Act 10 of 1927, Sec. 2 and Sch. I.
2. Ins. by Act 35 of 1934, Sec. 2 and Sch.