

**60-310. Lack of service on all defendants; procedure.** (a) *Generally.* In an action against two or more defendants, when one or more, but not all have been served, the plaintiff may proceed as follows:

(1) If the action is against defendants jointly indebted on a contract, the plaintiff may proceed against the defendants served, unless the court orders otherwise; and if the plaintiff recovers judgment, it may be entered against all the defendants jointly indebted and may be enforced only against the joint property of all defendants, and the separate property of the defendants served;

(2) if the action is against defendants severally liable, the plaintiff may, without prejudice to the plaintiff's rights against those not served, proceed against the defendants served in the same manner as if they were the only defendants.

(b) *Action against defendant not served.* Nothing in this section makes a judgment against one or more defendants jointly or severally liable a bar to another action against those not served.

**History:** L. 1963, ch. 303, 60-310; L. 2010, ch. 135, § 155; L. 2011, ch. 48, § 15; July 1.