

Although there is no demand for bill of particulars, if suit is under practice act, the account filed with declaration takes the place of bill of particulars under this section. Common counts may be joined with special ones, though bill of particulars shows there was a special contract. *Conservation Co. v. Stimpson*, 136 Md. 319.

A bill of particulars which sets out "to money received by the defendants from the plaintiff's intestate, to wit," etc., is insufficient. Bill of particulars should be specific like an account under speedy judgment act. *Stocksdale v. Jones*, 133 Md. 179.

Where a suit is not brought under speedy judgment act, plaintiff is not restricted in his evidence by this sub-section to account filed with declaration. *Fast v. Austin*, 135 Md. 20.

Where an account filed with a *narr.* contains no item for loss of profit caused by alleged breach of contract, evidence of such lost profit is inadmissible; reversible error. *Aitz Chaim Congregation v. Butterhoff*, 141 Md. 276.

This sub-section is but expression of previous practice. When bill of particulars is properly demandable. *Black v. Woodrow*, 39 Md. 212.

This sub-section does not require that bill of particulars disclose plaintiff's witnesses. Office and effect of bill of particulars. *Cairnes v. Pelton*, 103 Md. 44.

The first clause of this sub-section referred to in deciding that the actions of debt and assumpsit could not be joined. *Smith v. State*, 66 Md. 219.

(108) Whenever the partnership of any parties, or the incorporation of any alleged corporation, or the execution of any written instrument filed in the case is alleged in the pleadings in any action or matter at law, the same shall be taken as admitted for the purpose of said action or matter, unless the same shall be denied by the next succeeding pleading of the opposite party or parties.

Where declaration does not allege partnership, general issue plea does not constitute admission of partnership; partnership was question of fact for court sitting as jury. *Brocato v. Serio*, 173 Md. 374.

Cited in *Buechner v. Goodman*, 174 Md. 133; *Laing v. Duvall* (Judge Parke, Circuit Court for A. A. Co.), Daily Record, Sept. 7, 1939.

Failure to set forth defense of forgery in affidavit and omission in plea that signature was not authorized, does not justify reversal when this sub-section substantially complied with. *Commercial Credit Corp. v. Rozier*, 152 Md. 272.

After general issue plea filed, too late to allow additional plea denying genuineness of signature. *Farmers' & Mechts' Bank v. Harper*, 151 Md. 360, 364. And see *Commercial Credit Corp. v. Schuck*, 151 Md. 370.

This sub-section applied in suit by teacher against county board of education for breach of contract. *Board of Education v. Cearfoss*, 165 Md. 189.

This section referred to in construing sub-sec. 109. *Penna. R. R. Co. v. Lord*, 159 Md. 529.

While under this section the fact that defendants are partners may be admitted, such admission does not carry with it the further admission that suit was on a partnership transaction or that what one partner did in reference to it necessarily bound the other. *Tippett v. Meyers*, 127 Md. 531.

There must be a specific denial of partnership, incorporation or execution of any written instrument, or such matter is admitted. The filing of general issue plea is not a sufficient denial. *Fifer v. Clearfield Co.*, 103 Md. 3; *Banks v. McCosker*, 82 Md. 525; *Junkins v. Sullivan*, 110 Md. 545; *Abbott v. Bowers*, 98 Md. 527.

Where the declaration charges the execution of an agreement by A as the agent of B, and defendant does not in his pleas specifically deny execution of such agreement, such execution is admitted, but not that A was the agent of B with authority to bind the latter as alleged in the *narr.* *Fifer v. Clearfield Co.*, 103 Md. 3; *Tippett v. Meyers*, 127 Md. 530.

This sub-section has no application where there is no allegation in *narr.* of the execution of any instrument, but mere averment that defendant "guaranteed payment of the mortgage debt." *Commonwealth Bank v. Kirkland*, 102 Md. 668.

In a suit brought under a local practice act, the denial in defendant's affidavit of the execution of an instrument filed with the *narr.*, compels plaintiff to prove such execution. The procedure provided by practice act is complete in itself, and exclusive of this sub-section. *Horner v. Plumley*, 97 Md. 282; *Farmers' Bank v. Hunter*, 97 Md. 150; *Nicholson v. Snyder*, 97 Md. 420; *Engel v. Schloss*, 134 Md. 76. (See this case also as to burden of proving the execution of a promissory note, and prayers relative thereto.)

Under this sub-section, mere production of promissory note sued on makes a *prima facie* case which, unless rebutted, entitles plaintiff to recover. *Frederick Institution v. Michael*, 81 Md. 505 (dissenting opinion).

The defendant's signature to a note proved, although such proof was not required under this section. *Shaffer v. Bond*, 129 Md. 649.

This sub-section applied in a suit on a promissory note under practice act for Baltimore City. *Abbott v. Bowers*, 98 Md. 527. And see *McCarty v. Harris*, 93 Md. 741; *Junkins v. Sullivan*, 110 Md. 545.