

Title 12

DISTRICT COURTS—CIVIL PROCEDURE

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Chapter 12.04 RCW COMMENCEMENT OF ACTIONS

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Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

12.04.010 Civil actions—Commencement. Civil actions in the several justices' courts of this state may be instituted either by the voluntary appearance and agreement of the parties, by the service of a summons, or by the service upon

the defendant of a true copy of the complaint and notice, which notice shall be attached to the copy of the complaint and cite the defendant to be and appear before the justice at the time and place therein specified, which shall not be less than six nor more than twenty days from the date of filing the complaint. [Code 1881 § 1712; 1873 p 335 § 19; 1860 p 245 § 26; RRS § 1755.]

12.04.020 Action to recover debt—Summons—Service. A party desiring to commence an action before a justice of the peace, for the recovery of a debt by summons, shall file his or her claim with the justice of the peace, verified by his or her own oath, or that of his or her agent or attorney, and thereupon the justice of the peace shall, on payment of his or her fees, if demanded, issue a summons to the opposite party, which summons shall be in the following form, or as nearly as the case will admit, viz:

The State of Washington, }
 County. } ss.

To the sheriff or any constable of said county:
 In the name of the state of Washington, you are hereby commanded to summon if he or she (or they) be found in your county to be and appear before me at on day of at o'clock p.m. or a.m., to answer the complaint of for a failure to pay him or her a certain demand, amounting to dollars and cents, upon (here state briefly the nature of the claim) and of this writ make due service and return.
 Given under my hand this day of (year)
, Justice of the Peace.

And the summons shall specify a certain place, day and hour for the appearance and answer of the defendant, not less than six nor more than twenty days from the date of filing plaintiff's claim with the justice, which summons shall be served at least five days before the time of trial mentioned therein, and shall be served by the officer delivering to the defendant, or leaving at his or her place of abode with some person over twelve years of age, a true copy of such summons, certified by the officer to be such. [2016 c 202 § 10; 2010 c 8 § 3001; Code 1881 § 1713; 1873 p 335 § 20; 1860 p 245 § 29; RRS § 1758.]

12.04.030 Action by complaint and notice. Any person desiring to commence an action before a justice of the peace, by the service of a complaint and notice, can do so by filing his or her complaint verified by his or her own oath or that of his or her agent or attorney with the justice, and when such complaint is so filed, upon payment of his or her fees if

demanded, the justice shall attach thereto a notice, which shall be substantially as follows:

The State of Washington,
..... County.
}
ss.
To

You are hereby notified to be and appear at my office in on the day of, (year), at the hour of M., to answer to the foregoing complaint or judgment will be taken against you as confessed and the prayer of the plaintiff granted.

Dated, (year)
....., J. P.

[2016 c 202 § 11; 2010 c 8 § 3002; Code 1881 § 1714; 1873 p 336 § 21; 1860 p 245 § 29; RRS § 1759.]

12.04.040 Service of complaint and notice. The complaint and notice shall be served at least five days before the time mentioned in the notice for the defendant to appear and answer the complaint, by delivering to the defendant, or leaving at his or her place of abode, with some person over twelve years of age, a true copy of the complaint and notice. [2010 c 8 § 3003; 1925 ex.s. c 181 § 1; Code 1881 § 1715; 1873 p 337 § 22; RRS § 1761.]

12.04.050 Process—Who may serve. All process issued by district court judges of the state and all executions and writs of attachment or of replevin shall be served by a sheriff or a deputy, but a summons or notice and complaint may be served by any citizen of the state of Washington over the age of eighteen years and not a party to the action. [1987 c 442 § 1102; 1971 ex.s. c 292 § 11; 1903 c 19 § 1; 1895 c 102 § 1; 1893 c 108 § 1; Code 1881 § 1716; 1873 p 337 § 23; RRS § 1762. Formerly RCW 12.04.050 and 12.04.060, part.]

Additional notes found at www.leg.wa.gov

12.04.060 Process—Service by constable or sheriff. All process in actions and proceedings in justice courts, having a salaried constable, when served by an officer, shall be served by such constable or by the sheriff of the county or his or her duly appointed deputy; and all fees for such service shall be paid into the county treasury. [2010 c 8 § 3004; 1909 c 132 § 1; RRS § 1760. FORMER PARTS OF SECTION: 1903 c 19 § 1, part, now codified in RCW 12.04.050.]

12.04.070 Process—Return—Fees. Every constable or sheriff serving process or complaint and notice shall return in writing, the time, manner, and place of service and indorse thereon the legal fees therefor and shall sign his or her name to such return, and any person other than one of said officers serving summons or complaint and notice shall file with the justice his or her affidavit, stating the time, place, and manner of the service of such summons or notice and complaint and shall indorse thereon the legal fees therefor. [2010 c 8 § 3005; 1959 c 99 § 1; 1903 c 19 § 2; 1895 c 102 § 2; 1893 c 108 § 2; Code 1881 § 1717; 1873 p 337 § 24; 1860 p 246 § 37; 1854 p 229 § 31; RRS § 1763.]

12.04.080 Process—Service by person appointed by justice—Return—Exceptions. Any justice may, by appointment in writing, authorize any person other than the parties to the proceeding, or action, to serve any subpoena, summons, or notice and complaint issued by such justice; and any such person making such service shall return on such process or paper, in writing, the time and manner of service, and shall sign his or her name to such return, and be entitled to like fees for making such service as a sheriff or constable, and shall indorse his or her fees for service thereon: PROVIDED, It shall not be lawful for any justice to issue process or papers to any person but a regularly qualified sheriff or constable, in any precinct where such officers reside, unless from sickness or some other cause said sheriff or constable is not able to serve the same: PROVIDED FURTHER, That it shall be lawful for notice and complaint or summons in a civil action in the justice court to be served by any person eighteen years of age or over and not a party to the action in which the summons or notice and complaint shall be issued without previous appointment by the justice. [2010 c 8 § 3006; 1971 ex.s. c 292 § 12; 1903 c 19 § 3; Code 1881 § 1718; 1873 p 337 § 25; RRS § 1764.]

Additional notes found at www.leg.wa.gov

12.04.090 Proof of service. Proof of service in either of the above cases shall be as follows: When made by a constable or sheriff his or her return signed by him or her and indorsed on the paper or process. When made by any person other than such officer, then by the affidavit of the person making the service. [2010 c 8 § 3007; Code 1881 § 1719; 1873 p 337 § 26; RRS § 1765.]

12.04.100 Service by publication. In case personal service cannot be had by reason of the absence of the defendant from the county in which the action is sought to be commenced, it shall be proper to publish the summons or notice with a brief statement of the object and prayer of the claim or complaint, in some newspaper of general circulation in the county wherein the action is commenced, which notice shall be published not less than once a week for three weeks prior to the time fixed for the hearing of the cause, which shall not be less than four weeks from the first publication of the notice.

The notice may be substantially as follows:

The State of Washington,
County of
}
ss.
In justice's court, justice.

To

You are hereby notified that has filed a complaint (or claim as the case may be) against you in said court which will come on to be heard at my office in, in county, state of Washington, on the day of, A.D. (year), at the hour of o'clock ... m., and unless you appear and then and there answer, the same will be taken as confessed and the demand of the plaintiff granted. The object and demand of said claim (or complaint, as the case may be) is (here insert a brief statement).

Complaint filed, A.D. (year)
, J. P.

[2016 c 202 § 12; 1985 c 469 § 6; Code 1881 § 1720; 1873 p 337 § 27; RRS § 1766.]

Legal publications: Chapter 65.16 RCW.

12.04.110 Proof of service by publication. Proof of service, in case of publication, shall be the affidavit of the publisher, printer, foreperson, or principal clerk, showing the same. [2010 c 8 § 3008; Code 1881 § 1721; 1873 p 338 § 28; RRS § 1767.]

12.04.120 Written admission as proof of service. The written admission of the defendant, his or her agent or attorney, indorsed upon any summons, complaint and notice, or other paper, shall be complete proof of service in any case. [2010 c 8 § 3009; Code 1881 § 1722; 1873 p 338 § 29; RRS § 1768.]

12.04.130 Jurisdiction, when acquired. The court shall be deemed to have obtained possession of the case from the time the complaint or claim is filed, after completion of service, whether by publication or otherwise, and shall have control of all subsequent proceedings. In the case of proceedings to civilly enforce a money judgment entered in a municipal court or municipal department of a district court organized under the laws of this state, the court shall have jurisdiction over the proceedings from the time of filing an abstract or transcript of judgment; upon which filing the municipal judgment shall be recognized as a judgment of the court, provided that the court shall not have authority to vacate or amend the underlying municipal judgment. [2007 c 46 § 4; Code 1881 § 1723; 1873 p 338 § 30; RRS § 1769.]

12.04.140 Action by person under eighteen years. Except as provided under RCW 26.50.020, no action shall be commenced by any person under the age of eighteen years, except by his guardian, or until a next friend for such a person shall have been appointed. Whenever requested, the justice shall appoint some suitable person, who shall consent thereto in writing, to be named by such plaintiff, to act as his or her next friend in such action, who shall be responsible for the costs therein. [1992 c 111 § 10; 1971 ex.s. c 292 § 75; Code 1881 § 1753; 1873 p 343 § 52; 1854 p 230 § 40; RRS § 1771.]

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

12.04.150 Action against defendant under eighteen years—Guardian ad litem. After service and return of process against a defendant under the age of eighteen years, the action shall not be further prosecuted, until a guardian for such defendant shall have been appointed, except as provided under RCW 26.50.020. Upon the request of such defendant, the justice shall appoint some person who shall consent thereto in writing, to be guardian of the defendant in defense of the action; and if the defendant shall not appear on the return day of the process, or if he or she neglect or refuse to nominate such guardian, the justice may, at the request of the plaintiff, appoint any discreet person as such guardian. The consent of the guardian or next friend shall be filed with the

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justice; and such guardian for the defendant shall not be liable for any costs in the action. [1992 c 111 § 11; 1971 ex.s. c 292 § 76; Code 1881 § 1754; 1873 p 343 § 53; 1854 p 230 § 41; RRS § 1772.]

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

12.04.160 Time for appearance. The parties shall be entitled to one hour in which to make their appearance after the time mentioned in the summons or notice for appearance, but shall not be required to remain longer than that time, unless both parties appear; and the justice being present, is actually engaged in the trial of another action or proceeding; in such case he or she may postpone the time of appearance until the close of such trial. [2010 c 8 § 3010; 1957 c 89 § 1; Code 1881 § 1755; 1873 p 344 § 54; 1854 p 230 § 42; RRS § 1773.]

12.04.170 Security for nonresident costs. Whenever the plaintiff in an action, or in a garnishment or other proceeding is a nonresident of the county or begins such action or proceeding as the assignee of some other person, or of a firm or corporation, as to all causes of action sued upon, the justice may require of him or her security for the costs in the action or proceeding in a sum not exceeding fifty dollars, at the time of the commencement of the action, and after an action or proceeding has been commenced by such nonresident or assignee plaintiff, the defendant or garnishee defendant may require such security by motion; and all proceedings shall be stayed until such security has been given. [2010 c 8 § 3011; 1929 c 102 § 1; 1905 c 10 § 1; Code 1881 § 1725; 1854 p 228 § 27; RRS § 1777.]

12.04.180 Cost bond in lieu of security. In lieu of separate security for each action or proceeding in any court, the plaintiff may cause to be executed and filed in the court a bond in the penal sum of fifty dollars running to the state of Washington, with surety approved by the court, and conditioned for the payment of all judgments for costs which may thereafter be rendered against him or her in that court. Any defendant or garnishee who shall thereafter recover a judgment for costs in said court against the principal on such bond shall likewise be entitled to judgment against the sureties. Such bond shall not be sufficient unless the penalty thereof is unimpaired by any outstanding obligation at the time of the commencement of the action. [2010 c 8 § 3012; 1929 c 102 § 2; RRS § 1777 1/2.]

12.04.190 Penalty for failure to execute process or false return. If any officer, without showing good cause therefor, fail to execute any process to him or her delivered, and make due return thereof, or make a false return, such officer, for every such offense, shall pay to the party injured ten dollars, and all damage such party may have sustained by reason thereof, to be recovered in a civil action. [2010 c 8 § 3013; Code 1881 § 1752; 1873 p 343 § 51; 1854 p 230 § 39; RRS § 1776.]

12.04.200 Forms or equivalents prescribed. The forms or equivalent forms as set forth in RCW 12.04.201 through 12.04.208 may be used by justices of the peace, in

civil actions and proceedings under this chapter. [1957 c 89 § 3. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

12.04.201 Form of subpoena.

FORM OF SUBPOENA

State of Washington,
County of
} ss.

To

In the name of the state of Washington, you are hereby required to appear before the undersigned, one of the justices of the peace in and for said county, on the ... day of ..., (year) ..., at ... o'clock in the ... noon, at his or her office in ..., to give evidence in a certain cause, then and there to be tried, between A B, plaintiff, and C D, defendant, on the part of (the plaintiff, or defendant as the case may be).

Given under my hand this ... day of, (year)

J. P., Justice of the Peace.

[2016 c 202 § 13; 2010 c 8 § 3014; 1957 c 89 § 4. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

12.04.203 Form of execution—Form of execution against principal and surety, after expiration of stay of execution.

FORM OF EXECUTION

State of Washington,
County of
} ss.

To the sheriff or any constable of said county:

Whereas, judgment against C D, for the sum of dollars, and dollars cost of suit, was recovered on the ... day of ..., (year) ..., before the undersigned, one of the justices of the peace in and for said county, at the suit of A B. These are, therefore, in the name of the state of Washington, to command you to levy on the goods and chattels of the said C D (excepting such as the law exempts), and make sale thereof according to law, to the amount of said sum and costs upon this writ, and the same return to me within thirty days, to be rendered to the said A B, for his or her debt, interests and costs.

Given under my hand this ... day of, (year)

J. P., Justice of the Peace.

FORM OF EXECUTION AGAINST PRINCIPAL AND SURETY, AFTER EXPIRATION OF STAY OF EXECUTION

State of Washington,
County of
} ss.

To the sheriff or any constable of said county:

Whereas, judgment against C D for the sum of dollars, and for dollars, costs of suit, was recovered on the ... day of, (year) ..., before the undersigned, one of the justices of the peace in and for said county, at the suit of A B; and whereas, on the ... day of, (year) ..., E F became surety to pay said judgment and costs, in ... month from the date of the judgment aforesaid, agreeably to law, in the payment of which said C D and E F have failed; these are, therefore, in the name, etc., [as in the common form].

[2016 c 202 § 14; 2010 c 8 § 3015; 1957 c 89 § 5. Prior: Code 1881 § 1895, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

12.04.204 Form of order in replevin.

FORM OF ORDER IN REPLEVIN

State of Washington,
County of
} ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are hereby commanded to take the personal property mentioned and described in the within affidavit, and deliver the same to the plaintiff, upon receiving a proper undertaking, unless before such delivery, the defendant enter into a sufficient undertaking for the delivery thereof to the plaintiff, if delivery be adjudged.

Given under my hand this ... day of, (year)

J. P., Justice of the Peace.

[2016 c 202 § 15; 1957 c 89 § 6. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

12.04.205 Form of a writ of attachment.

FORM OF A WRIT OF ATTACHMENT

State of Washington,
County of
} ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are commanded to attach, and safely keep, the goods and chattels, moneys, effects and credits of C D, (excepting such as the law exempts), or so much thereof as shall satisfy the sum of dollars, with interest and cost

of suit, in whosoever hands or possession the same may be found in your county, and to provide that the goods and chattels so attached may be subject to further proceeding thereon, as the law requires; and of this writ make legal service and due return.

Given under my hand this ... day of, (year)

J. P., Justice of the Peace.

[2016 c 202 § 16; 1957 c 89 § 7. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

12.04.206 Form of undertaking in replevin.

FORM OF UNDERTAKING IN REPLEVIN

Whereas, A B, plaintiff, has commenced an action before J P, one of the justices of the peace in and for county, against C D, defendant, for the recovery of certain personal property, mentioned and described in the affidavit of the plaintiff, to wit: [here set forth the property claimed]. Now, therefore we, A B, plaintiff, E F and G H, acknowledge ourselves bound unto C D in the sum of dollars for the prosecution of the action for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him or her of such sum as may for any cause be recovered against the plaintiff.

Dated the day of, (year) A B, E F, G H. [2016 c 202 § 17; 2010 c 8 § 3016; 1957 c 89 § 8. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

12.04.207 Form of undertaking in attachment— Form of undertaking to discharge attachment.

FORM OF UNDERTAKING IN ATTACHMENT

Whereas, an application has been made by A B, plaintiff, to J P, one of the justices of the peace in and for county, for a writ of attachment against the personal property of C D, defendant; Now, therefore, we, A B, plaintiff, and E F, acknowledge ourselves bound to C D in the sum of dollars, that if the defendant recover judgment in this action, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he or she may sustain by reason of the said attachment and not exceeding the sum of dollars.

Dated the day of, (year) A B, E F.

FORM OF UNDERTAKING TO DISCHARGE ATTACHMENT

Whereas, a writ of attachment has been issued by J P, one of the justices of the peace in and for county, against the personal property of C D, defendant, in an action in which A B is plaintiff; Now, therefore, we C D, defendant, E F, and G H, acknowledge ourselves bound unto J K, constable, in the sum of dollars, [double the value of the property], engaging to deliver the property attached, to wit: [here set forth a list of articles attached], or pay the value thereof to the sheriff or constable, to whom the execution upon a judgment obtained by plaintiff in the aforesaid action may be issued.

Dated this day of, (year) C D, E F, G H. [2016 c 202 § 18; 2010 c 8 § 3017; 1957 c 89 § 9. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 § 19, part; RRS § 1890, part.]

12.04.208 Form of undertaking to indemnify constable on claim of property by a third person.

(2016 Ed.)

FORM OF UNDERTAKING TO INDEMNIFY CONSTABLE ON CLAIM OF PROPERTY BY A THIRD PERSON

Whereas, L M, claims to be owner of, and have the right to possession of certain personal property, to wit: [here describe it] which has been taken by J K, constable in county, upon an execution by J P, justice of the peace in and for the county of, upon a judgment obtained by A B, plaintiff, against C D, defendant; Now, therefore, we A B, plaintiff, E F, and G H, acknowledge ourselves bound unto the said J K, constable, in the sum of dollars, to indemnify the said J K against such claim. A B, E F, G H.

[1957 c 89 § 10. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

Chapter 12.08 RCW PLEADINGS

Sections

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12.08.090	Objections to pleadings—Amendment.
12.08.100	Variance between pleading and proof.
12.08.110	Amendments—Continuance.
12.08.120	Setoff—Pleading.

12.08.010 When pleadings take place. The pleadings in justice's court shall take place upon the appearance of the parties, unless they shall have been previously filed or unless the justice shall, for good cause shown, allow a longer time than the time of appearance. [Code 1881 § 1756; 1873 p 344 § 55; 1854 p 231 § 43; RRS § 1778.]

12.08.020 What constitute pleadings. The pleadings in the justice's court shall be:

(1) The complaint of the plaintiff, which shall state in a plain and direct manner the facts constituting the cause of action.

(2) The answer of the defendant, which may contain a denial of the complaint, or any part thereof; and also a statement, in a plain and direct manner, of any facts constituting a defense.

(3) When the answer sets up a setoff, by way of defense, the reply of the plaintiff. [Code 1881 § 1757; 1873 p 344 § 56; 1854 p 231 § 44; RRS § 1779.]

12.08.030 Pleadings oral or written. The pleadings in justices' courts may be oral or in writing. [1957 c 89 § 11; Code 1881 § 1758; 1873 p 344 § 57; 1854 p 231 § 45; RRS § 1780.]

12.08.040 Docketing or filing. When the pleadings are oral, the substance of them shall be entered by the justice in his or her docket. When in writing they shall be filed in his or her office and a reference made to them in his or her docket. Pleadings shall not be required to be in any particular form,

but shall be such as to enable a person of common understanding to know what is intended. [2010 c 8 § 3018; Code 1881 § 1759; 1873 p 345 § 58; 1854 p 231 § 46; RRS § 1781.]

12.08.050 Denial of knowledge or information—Effect. A statement in an answer or reply, that the party has not sufficient knowledge or information, in respect to a particular allegation in the previous pleadings of the adverse party to form a belief, shall be deemed equivalent to a denial. [Code 1881 § 1760; 1873 p 345 § 59; 1854 p 231 § 47; RRS § 1782.]

12.08.060 Pleading account or instrument. When the cause of action, or setoff, arises upon an account or instrument for the payment of money only, it shall be sufficient for the party to deliver the account or instrument, or a copy thereof, to the court, and to state that there is due to him or her thereon, from the adverse party, a specified sum, which he or she claims to recover or setoff. The court may, at the time of pleading, require that the original account, or instrument, be exhibited to the inspection of the adverse party, with liberty to copy the same; or if not so exhibited, may prohibit its being given in evidence. [2010 c 8 § 3019; Code 1881 § 1761; 1873 p 345 § 60; 1854 p 231 § 48; RRS § 1783.]

12.08.070 Verification. Every complaint, answer, or reply shall be verified by the oath of the party pleading; or if he or she be not present, by the oath of his or her attorney or agent, to the effect that he or she believes it to be true. The verification shall be oral, or in writing, in conformity with the pleading verified. [2010 c 8 § 3020; Code 1881 § 1762; 1873 p 345 § 61; 1854 p 232 § 49; RRS § 1784.]

12.08.080 Uncontroverted allegations—Effect. Every material allegation in a complaint, or relating to a setoff in an answer, not denied by the pleading of the adverse party, shall, on the trial, be taken to be true, except that when a defendant, who has not been served with a copy of the complaint, fails to appear and answer, the plaintiff cannot recover without proving his or her case. [2010 c 8 § 3021; Code 1881 § 1763; 1873 p 345 § 62; 1854 p 232 § 50; RRS § 1785.]

12.08.090 Objections to pleadings—Amendment. Either party may object to a pleading by his or her adversary, or to any part thereof that is not sufficiently explicit for him or her to understand it, or that it contains no cause of action or defense although it be taken as true. If the court deem the objection well founded, it shall order the pleading to be amended; and if the party refuse to amend, the defective pleading shall be disregarded. [2010 c 8 § 3022; Code 1881 § 1764; 1873 p 345 § 63; 1854 p 232 § 51; RRS § 1786.]

12.08.100 Variance between pleading and proof. A variance between the proof on the trial, and the allegations in a pleading, shall be disregarded as immaterial, unless the court be satisfied that the adverse party has been misled to his or her prejudice thereby. [2010 c 8 § 3023; Code 1881 § 1765; 1873 p 346 § 64; 1854 p 232 § 52; RRS § 1787.]

12.08.110 Amendments—Continuance. The pleadings may be amended at any time before the trial, or during

the trial, or upon appeal, to supply any deficiency or omissions in the allegations or denials, necessary to support the action or defense, when by such amendment substantial justice will be promoted. If the amendment be made after the issue, and it be made to appear to the satisfaction of the court that a continuance is necessary to the adverse party in consequence of such amendment, a continuance shall be granted. The court may also, in its discretion, require as a condition of an amendment, the payment of costs to the adverse party. [Code 1881 § 1766; 1873 p 346 § 65; 1854 p 232 § 53; RRS § 1788.]

12.08.120 Setoff—Pleading. To entitle a defendant to any setoff he or she may have against the plaintiff, he or she must allege the same in his or her answer; and the statutes regulating setoffs in the superior court, shall in all respects be applicable to a setoff in a justice's court, if the amount claimed to be setoff, after deducting the amount found due to the plaintiff, be within the jurisdiction of the justice of the peace; judgment may, in like manner, be rendered by the justice in favor of the defendant, for the balance found due the plaintiff. [2010 c 8 § 3024; Code 1881 § 1767; 1873 p 346 § 66; 1854 p 232 § 54; RRS § 1789.]

Reviser's note: Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Chapter 12.12 RCW TRIAL

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12.12.080	Delivery of verdict.
12.12.090	Discharge of jury.

12.12.010 Continuances limited. When the pleadings of the party shall have taken place, the justice shall, upon the application of either party, and sufficient cause be shown on oath, continue the case for any time not exceeding sixty days. If the continuance be on account of absence of testimony, it shall be for such reasonable time as will enable the party to procure such testimony, and shall be at the cost of the party applying therefor, unless otherwise ordered by the justice; and in all other respects shall be governed by the law applicable to continuance in the superior court. [1957 c 89 § 12; Code 1881 § 1769; 1873 p 346 § 68; 1854 p 232 § 56; RRS § 1847.]

12.12.020 Trial by justice. Upon issue joined, if a jury trial be not demanded, the justice shall hear the evidence, and decide all questions of law and fact, and render judgment accordingly. [Code 1881 § 1782; 1873 p 350 § 81; 1854 p 237 § 82; RRS § 1848.]

12.12.030 Jury—Number—Qualifications—Fee. After the appearance of the defendant, and before the judge shall proceed to enquire into the merits of the cause, either party may demand a jury to try the action, which jury shall be composed of six good and lawful persons having the qualifications of jurors in the superior court of the same county,

unless the parties shall agree upon a lesser number: PROVIDED, That the party demanding the jury shall first pay to the clerk of the court the sum of one hundred twenty-five dollars, which shall be paid over by the clerk of the court to the county, and such amount shall be taxed as costs against the losing party. [2005 c 457 § 13; 1981 c 260 § 3. Prior: 1977 ex.s. c 248 § 2; 1977 ex.s. c 53 § 2; 1888 p 118 § 1; Code 1881 § 1770; 1863 p 438 § 51; 1862 p 58 § 1; 1854 p 235 § 70; RRS § 1849.]

Intent—2005 c 457: See note following RCW 43.08.250.

12.12.070 Oath administered. When the jury is selected, the justice shall administer to them an oath or affirmation, well and truly to try the cause. [Code 1881 § 1776; 1873 p 348 § 75; 1854 p 236 § 76; RRS § 1853.]

12.12.080 Delivery of verdict. When the jury have agreed on their verdict, they shall deliver the same to the justice, publicly, who shall enter it on his or her docket. [2010 c 8 § 3025; Code 1881 § 1777; 1873 p 348 § 76; 1854 p 236 § 77; RRS § 1854.]

12.12.090 Discharge of jury. Whenever a justice shall be satisfied that a jury, sworn in any civil cause before him or her, having been out a reasonable time, cannot agree on their verdict, he or she may discharge them, and issue a new venire, unless the parties consent that the justice may render judgment on the evidence before him or her, or upon such other evidence as they may produce. [2010 c 8 § 3026; Code 1881 § 1778; 1873 p 348 § 77; 1854 p 236 § 78; RRS § 1855.]

**Chapter 12.16 RCW
WITNESSES AND DEPOSITIONS**

Sections

- 12.16.015 District court may compel attendance of witness.
- 12.16.020 Service of subpoena.
- 12.16.030 Attachment for nonappearance.
- 12.16.040 Service of attachment—Fees.
- 12.16.050 Damages for nonappearance.
- 12.16.060 Party to action as adverse witness.
- 12.16.070 Testimony of party may be rebutted.
- 12.16.080 Procedure on party's refusal to testify.
- 12.16.090 Examination of party in his or her own behalf.

Oaths and affirmations: Chapter 5.28 RCW.

12.16.015 District court may compel attendance of witness. Any person may be compelled to attend as a witness before a district court in accordance with chapter 5.56 RCW. [1984 c 258 § 702.]

Additional notes found at www.leg.wa.gov

12.16.020 Service of subpoena. A subpoena may be served by any person above the age of eighteen years, by reading it to the witness, or by delivering to him or her a copy at his or her usual place of abode. [2010 c 8 § 3027; Code 1881 § 1870; 1873 p 370 § 169; 1854 p 233 § 58; RRS § 1899.]

12.16.030 Attachment for nonappearance. Whenever it shall appear to the satisfaction of the justice, by proof made before him or her, that any person, duly subpoenaed to appear before him or her in an action, shall have failed, without a just

cause, to attend as a witness, in conformity to such subpoena, and the party in whose behalf such subpoena was issued, or his or her agent, shall make oath that the testimony of such witness is material, the justice shall have the power to issue an attachment to compel the attendance of such witness: PROVIDED, That no attachment shall issue against a witness in any civil action, unless his or her fees for mileage and one day's attendance have been tendered or paid in advance, if previously demanded by such witness from the person serving the subpoena. [2010 c 8 § 3028; Code 1881 § 1871; 1873 p 370 § 170; 1854 p 233 § 59; RRS § 1900.]

Attachment of a witness: RCW 5.56.070.

When witness must attend: RCW 5.56.010.

12.16.040 Service of attachment—Fees. Every such attachment may be directed to any sheriff or constable of the county in which the justice resides, and shall be executed in the same manner as a warrant; and the fees of the officer for issuing and serving the same shall be paid by the person against whom the same was issued, unless he or she show reasonable cause, to the satisfaction of the justice, for his or her omission to attend; in which case the party requiring such attachment shall pay all such costs. [2010 c 8 § 3029; Code 1881 § 1872; 1873 p 370 § 171; 1854 p 233 § 60; RRS § 1901.]

Attachment, to whom directed—Execution: RCW 5.56.080.

12.16.050 Damages for nonappearance. Every person subpoenaed as aforesaid, and neglecting to appear, shall also be liable to the party in whose behalf he or she may have been subpoenaed, for all damages which such party may have sustained by reason of his or her nonappearance: PROVIDED, That such witness had the fees allowed for mileage and one day's attendance paid, or tendered him or her, in advance, if demanded by him or her at the time of the service. [2010 c 8 § 3030; Code 1881 § 1873; 1873 p 371 § 172; 1854 p 234 § 61; RRS § 1902.]

Result of failure to attend: RCW 5.56.060, 5.56.061.

When witness must attend: RCW 5.56.010.

12.16.060 Party to action as adverse witness. A party to an action may be examined as a witness, at the instance of the adverse party, and for that purpose may be compelled in the same manner, and subject to the same rules of examination, as any other witness, to testify at the trial, or appear and have his or her deposition taken. [2010 c 8 § 3031; Code 1881 § 1874; 1873 p 371 § 173; 1854 p 234 § 62; RRS § 1903.]

12.16.070 Testimony of party may be rebutted. The examination of a party thus taken, may be rebutted by adverse testimony. [Code 1881 § 1875; 1873 p 371 § 174; 1854 p 234 § 63; RRS § 1904.]

12.16.080 Procedure on party's refusal to testify. If a party refuse to attend and testify at the trial, or give his or her deposition before trial, when required, his or her complaint, answer or reply, may be stricken out, and judgment taken against him or her. [2010 c 8 § 3032; Code 1881 § 1876; 1873 p 371 § 175; 1854 p 234 § 64; RRS § 1905.]

Penalty for failure to testify: Rules of court: CR 43(f)(3).

12.16.090 Examination of party in his or her own behalf. A party examined by an adverse party may be examined on his or her own behalf, in respect to any matter pertinent to the issue. But if he or she testify to any new matter, not responsive to the inquiries put to him or her by the adverse party, or necessary to qualify or explain his or her answer thereto, or to discharge, when his or her answer would charge himself or herself, such adverse party may offer himself or herself as a witness, and he or she shall be so received. [2010 c 8 § 3033; Code 1881 § 1877; 1873 p 371 § 176; 1854 p 234 § 65; RRS § 1906.]

Chapter 12.20 RCW JUDGMENTS

Sections

12.20.010	Judgment of dismissal.
12.20.020	Judgment by default.
12.20.030	Judgment on merits.
12.20.040	Tender—Effect of, on judgment.
12.20.050	Setoff—Limitation of judgment.
12.20.060	Judgment for costs—Attorney's fee—Costs in civil actions for the recovery of money only.
12.20.070	Proceedings where title to land is involved.

Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

12.20.010 Judgment of dismissal. Judgment that the action be dismissed, without prejudice to a new action, may be entered, with costs, in the following cases:

(1) When the plaintiff voluntarily dismisses the action before it is finally submitted.

(2) When he or she fails to appear at the time specified in the notice, upon continuance, or within one hour thereafter.

(3) When it is objected at the trial, and appears by the evidence that the action is brought in the wrong precinct; but if the objection be taken and overruled, it shall be cause only of reversal or appeal; if not taken at the trial it shall be deemed waived, and shall not be cause of reversal. [2010 c 8 § 3034; Code 1881 § 1780; 1873 p 348 § 79; 1863 p 349 § 61; 1854 p 236 § 80; RRS § 1857.]

12.20.020 Judgment by default. When the defendant fails to appear and plead at the time specified in the notice, or within one hour thereafter, judgment shall be given as follows:

(1) When the defendant has been served with a true copy of the complaint, judgment shall be given without further evidence for the sum specified therein;

(2) In other cases, the justice shall hear the evidence of the plaintiff, and render judgment for such sum only as shall appear by the evidence to be just, but in no case exceed the amount specified in the complaint.

(3) The justice shall have full power at any time after a judgment has been given by default for failure of the defendant to appear and plead at the proper time, to vacate and set aside said judgment for any good cause and upon such terms as he or she shall deem sufficient and proper. Such judgment shall only be set aside upon five days notice in writing served upon the plaintiff or the plaintiff's attorney and filed with the justice within ten days after the entry of the judgment. The justice shall hear the application to set aside such judgment either upon affidavits or oral testimony as he or she may

deem proper. In case such judgment is set aside the making of the application for setting the same aside shall be considered an entry of general appearance in the case by the applicant, and the case shall duly proceed to a trial upon the merits: PROVIDED, That, no justice of the peace shall pay out or turn over money or property received by him or her by virtue of any default judgment until the expiration of the ten days for moving to set aside such default judgment has expired. [2010 c 8 § 3035; 1915 c 41 § 1; Code 1881 § 1781; 1873 p 349 § 79; 1863 p 349 § 62; 1854 p 237 § 81; RRS § 1858.]

12.20.030 Judgment on merits. Upon the verdict of a jury, the justice shall immediately render judgment thereon. When the trial is by the justice, judgment shall be entered within three days after the close of the trial. [1957 c 89 § 13; Code 1881 § 1783; 1873 p 350 § 82; 1854 p 237 § 83; RRS § 1859.]

12.20.040 Tender—Effect of, on judgment. If the defendant, at any time before the trial, offer in writing to allow judgment to be taken against him or her for a specified sum, the plaintiff may immediately have judgment therefor, with costs then accrued; but if he or she do not accept such offer before the trial, and fail to recover on the trial of the action, a sum greater than the offer, such plaintiff shall not recover any costs that may accrue after he or she shall have been notified of the offer of the defendant, but such costs shall be adjudged against him or her, and if he or she recover, deducted from his or her recovery. But the offer and failure to accept it, shall not be given in evidence to affect the recovery, otherwise than as to costs, as above provided. [2010 c 8 § 3036; Code 1881 § 1784; 1873 p 350 § 83; 1863 p 350 § 65; 1854 p 237 § 84; RRS § 1860.]

12.20.050 Setoff—Limitation of judgment. When the setoff of the defendant proved shall exceed the claim of the plaintiff, and such excess in amount exceed the jurisdiction of a justice of the peace, the court shall allow such amount as is necessary to cancel the plaintiff's claim, and give the defendant a judgment for costs; but in such case, the court shall not render judgment for any further sum in favor of the defendant. [Code 1881 § 1768; 1873 p 346 § 67; 1854 p 232 § 55; RRS § 1861.]

12.20.060 Judgment for costs—Attorney's fee—Costs in civil actions for the recovery of money only. (1) When the prevailing party in district court is entitled to recover costs as authorized in RCW 4.84.010 in a civil action, the judge shall add the amount thereof to the judgment; in case of failure of the plaintiff to recover or of dismissal of the action, the judge shall enter up a judgment in favor of the defendant for the amount of his or her costs; and in case any party so entitled to costs is represented in the action by an attorney, the judge shall include attorney's fees in the amount provided in RCW 4.84.080 as part of the costs: PROVIDED, HOWEVER, That the plaintiff shall not be entitled to such attorney fee unless he or she obtains, exclusive of costs, a judgment in the sum of fifty dollars or more: AND PROVIDED FURTHER, That if the plaintiff obtains judgment, exclusive of costs, of at least fifty dollars but less than two

hundred dollars, the judge shall include attorney fees of one hundred twenty-five dollars as part of the costs.

(2)(a) In any district court civil action for the recovery of money only, the plaintiff will be considered the prevailing party for the purpose of awarding costs, including a statutory attorney fee, if: (i) The defendant makes full or partial payment of the amounts sought by the plaintiff prior to the entry of judgment; and (ii) before such payment is tendered, the plaintiff has notified the defendant in writing that the full or partial payment of the amounts sued for might result in an award of costs. The plaintiff is not entitled to a statutory attorney fee unless the amount prayed for, exclusive of costs, is fifty dollars or more, and if the amount prayed for, exclusive of costs, is at least fifty dollars but less than two hundred dollars, the judgment must include a statutory attorney fee of one hundred twenty-five dollars as part of the costs.

(b) For the purposes of this section, "plaintiff" includes a counterclaimant, cross-claimant, and third-party plaintiff, and "defendant" includes a party defending a counterclaim, cross-claim, or third-party claim.

(c) A party may demand, offer, or accept payment of statutory costs before the entry of judgment in an action.

(d) This section may not be construed to (a) [(i)] authorize an award of costs if the action is resolved by a negotiated settlement or (b) [(ii)] limit or bar the operation of cost-shifting provisions of other statutes or court rules. [2009 c 240 § 3; 2004 c 123 § 2; 1993 c 341 § 1; 1985 c 240 § 2; 1984 c 258 § 89; 1975-'76 2nd ex.s. c 30 § 1; 1915 c 43 § 1; 1893 c 12 § 1; Code 1881 § 1785; 1873 p 350 § 84; 1854 p 237 § 85; RRS § 1862.]

Attorneys' fee as costs in damage actions of ten thousand dollars or less: RCW 4.84.250 through 4.84.300.

Additional notes found at www.leg.wa.gov

12.20.070 Proceedings where title to land is involved.

If it appear on the trial of any cause before a justice of the peace, from the evidence of either party, that the title to lands is in question, which title shall be disputed by the other, the justice shall immediately make an entry thereof in his or her docket, and cease all further proceedings in the cause, and shall certify and return to the superior court of the county, a transcript of all the entries made in his or her docket, relating to the cause, together with all the process and other papers relating to the action, in the same manner, and within the same time, as upon an appeal; and thereupon the parties shall file their pleadings, and the superior court shall proceed in the cause to final judgment and execution, in the same manner as if the said action had been originally commenced therein, and the cost shall abide the event of the suit. [2010 c 8 § 3037; Code 1881 § 1868; 1873 p 369 § 167; 1854 p 235 § 69; RRS § 1863.]

Chapter 12.28 RCW REPLEVIN

Sections

12.28.005 Chapter 7.64 RCW available to plaintiff in action to recover possession of personal property.

12.28.005 Chapter 7.64 RCW available to plaintiff in action to recover possession of personal property. The

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plaintiff in an action to recover the possession of personal property may claim and obtain the immediate delivery of the property, after a hearing, as provided in chapter 7.64 RCW. [1979 ex.s. c 132 § 8.]

Chapter 12.36 RCW SMALL CLAIMS APPEALS

Sections

12.36.010 Appeal in small claims action authorized.
12.36.020 Appeal—Procedure—Notice filing—Fee—Bond or undertaking—Service—Costs of record preparation.
12.36.030 Stay of proceedings—Procedures—Return of property upon stay—Enforcement upon denial.
12.36.050 Certification of record by district court—Transmittal to superior court—Powers of superior court upon transmittal.
12.36.055 Trial of an appeal from small claims judgment.
12.36.080 No dismissal for defective bond—Notice.
12.36.090 Judgment against appellant and sureties.

Costs in appeal from district courts: RCW 4.84.130.

12.36.010 Appeal in small claims action authorized.

Any person wishing to appeal a judgment or decision in a small claims action may, in person or by his or her agent, appeal to the superior court of the county where the judgment was rendered or decision made: PROVIDED, There shall be no appeal allowed unless the amount in controversy, exclusive of costs, exceeds two hundred fifty dollars: PROVIDED FURTHER, That an appeal from the court's determination or order on a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). [1997 c 352 § 7; 1979 ex.s. c 136 § 21; 1929 c 58 § 1; RRS § 1910. Prior: 1905 c 20 § 1; 1891 c 29 § 1; Code 1881 § 1858; 1873 p 367 § 156; 1854 p 252 § 160.]

Additional notes found at www.leg.wa.gov

12.36.020 Appeal—Procedure—Notice filing—Fee—Bond or undertaking—Service—Costs of record preparation. (1) To appeal a judgment or decision in a small claims action, an appellant shall file a notice of appeal in the district court, pay the statutory superior court filing fee, post the required bond or undertaking, and serve a copy of the notice of appeal on all parties of record within thirty days after the judgment is rendered or decision made.

(2) No appeal may be allowed, nor proceedings on the judgment or decision stayed, unless a bond or undertaking shall be executed on the part of the appellant and filed with and approved by the district court. The bond or undertaking shall be executed with two or more personal sureties, or a surety company as surety, to be approved by the district court, in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater, conditioned that the appellant will pay any judgment, including costs, as may be rendered on appeal. No bond is required if the appellant is a county, city, town, or school district.

(3) When an appellant has filed a notice of appeal, paid the statutory superior court filing fee and the costs of preparation of the complete record as set forth in *RCW 3.62.060(7), and posted the bond or undertaking as required, the clerk of the district court shall immediately file a copy of the notice of appeal, the filing fee, and the bond or undertaking with the superior court. [1998 c 52 § 1; 1997 c 352 § 8;

1929 c 58 § 2; RRS § 1911. Prior: 1891 c 29 § 1; Code 1881 § 1859; 1873 p 367 §§ 157, 158; 1854 p 252 §§ 161, 162.]

*Reviser's note: RCW 3.62.060 was amended by 2009 c 372 § 1, changing subsection (7) to subsection (8). RCW 3.62.060 was subsequently amended by 2011 1st sp.s. c 44 § 4, changing subsection (8) to subsection (1)(h).

12.36.030 Stay of proceedings—Procedures—Return of property upon stay—Enforcement upon denial. When an appeal and any necessary bond or undertaking are properly filed in superior court pursuant to RCW 12.36.020(3), the appellant may move in superior court to stay all further proceedings in the district court. If the stay is granted, all further proceedings in district court on the judgment shall be suspended. If proceedings have commenced on motion of the appellant the court may order the proceedings halted and such process recalled.

If any property is held pursuant to such proceedings at the time the stay is granted and the process recalled, such property shall be returned immediately to the party entitled to such property.

If the requested stay is denied, or no stay is requested, the judgment will be enforced in superior court in the same manner as any other judgment rendered in that court. [1998 c 52 § 2; 1997 c 352 § 9; 1929 c 58 § 3; RRS § 1912. Prior: Code 1881 § 1861; 1873 p 368 § 160; 1854 p 252 § 164.]

12.36.050 Certification of record by district court—Transmittal to superior court—Powers of superior court upon transmittal. (1) Within fourteen days after a small claims appeal has been filed in superior court by the clerk of the district court pursuant to RCW 12.36.020(3), the complete record as defined in subsection (2) of this section shall be made and certified by the clerk of the district court to be correct. The clerk shall then immediately transmit the complete record to superior court. The superior court shall then become possessed of the cause. All further proceedings shall be in the superior court, including enforcement of any judgment rendered. Any superior court procedures such as arbitration or other methods of dispute resolution may be utilized by the superior court in its discretion.

(2) The complete record shall consist of a transcript of all entries made in the district court docket relating to the case, together with all the process and other papers relating to the case filed with the district court and a contemporaneous recording made of the proceeding. [2001 c 156 § 1; 1998 c 52 § 3; 1997 c 352 § 10; 1929 c 58 § 5; RRS §§ 1914, 1915. Prior: 1891 c 29 § 4; Code 1881 § 1863; 1873 p 368 § 162; 1854 p 252 § 166. Formerly RCW 12.36.050 and 12.36.060.]

12.36.055 Trial of an appeal from small claims judgment. (1) The appeal from a small claims judgment or decision shall be de novo upon the record of the case, as entered by the district court.

(2) Any cases heard in superior court pursuant to this section may be heard by a duly appointed commissioner. As used in this chapter "judge" includes any duly appointed commissioner. [2001 c 156 § 2; 1997 c 352 § 11.]

12.36.080 No dismissal for defective bond—Notice. No appeal under this chapter shall be dismissed on account of

any defect in the bond on appeal, if, within ten days of notice to appellant of such defect, the appellant executes and files in the court currently possessed of the cause such bond as should have been executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect. [1998 c 52 § 4; 1997 c 352 § 12; 1929 c 58 § 7; RRS § 1917. Prior: Code 1881 § 1867; 1873 p 369 § 165; 1854 p 253 § 169.]

12.36.090 Judgment against appellant and sureties. In all cases of appeal to the superior court under this chapter, if the judgment is against the appellant, in whole or in part, such judgment shall be rendered against the appellant and his or her sureties on the bond on appeal. [1997 c 352 § 13; 1929 c 58 § 8; RRS § 1918. Prior: Code 1881 § 1867; 1873 p 369 § 166; 1854 p 253 § 170.]

Chapter 12.40 RCW SMALL CLAIMS

Sections

12.40.010	Department authorized—Jurisdictional amount.
12.40.020	Action—Commencement—Fee—Surcharge.
12.40.025	Transfer of action to small claims department.
12.40.027	Removal to superior court—Restrictions—Simultaneous maintenance of claims—Joinder of claims on appeal.
12.40.030	Setting case for hearing—Notice—Time of trial.
12.40.040	Service of notice of claim—Fee.
12.40.045	Recovery of fees as court costs.
12.40.050	Requisites of claim.
12.40.060	Requisites of notice.
12.40.070	Verification of claim.
12.40.080	Hearing.
12.40.090	Informal pleadings.
12.40.100	Payment of monetary judgment.
12.40.105	Increase of judgment upon failure to pay.
12.40.110	Procedure on nonpayment.
12.40.120	Appeals—Setting aside judgments.
12.40.800	Small claims informational brochure—Preparation and distribution.

12.40.010 Department authorized—Jurisdictional amount. In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court." The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed five thousand dollars. [2008 c 227 § 2; 2001 c 154 § 1; 1991 c 71 § 1; 1988 c 85 § 1; 1984 c 258 § 57; 1981 c 331 § 10; 1979 c 102 § 4; 1973 c 128 § 1; 1970 ex.s. c 83 § 1; 1963 c 123 § 1; 1919 c 187 § 1; RRS § 1777-1.]

Effective date—Subheadings not law—2008 c 227: See notes following RCW 3.50.003.

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

Additional notes found at www.leg.wa.gov

12.40.020 Action—Commencement—Fee—Surcharge. (1) A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of fourteen dollars plus any surcharge authorized by RCW 7.75.035 shall be paid when the claim is filed. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of fourteen dollars plus any surcharge authorized by RCW 7.75.035.

(2) Until July 1, 2013, in addition to the fees required by this section, an additional surcharge of ten dollars shall be charged on the filing fees required by this section, of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county. [2011 1st sp.s. c 44 § 2; 2009 c 572 § 2; 2005 c 457 § 14; 1990 c 172 § 3; 1984 c 258 § 58; 1919 c 187 § 2; RRS § 1777-2.]

Effective date—2011 1st sp.s. c 44: See note following RCW 3.62.020.

Effective date—2009 c 572: See note following RCW 43.79.505.

Intent—2005 c 457: See note following RCW 43.08.250.

Additional notes found at www.leg.wa.gov

12.40.025 Transfer of action to small claims department. A defendant in a district court proceeding in which the claim is within the jurisdictional amount for the small claims department may in accordance with court rules transfer the action to the small claims department. In the event of such a transfer the provisions of RCW 12.40.070 shall not be applicable if the plaintiff was an assignee of the claim at the time the action was commenced nor shall the provisions of RCW 12.40.080 prohibit an attorney from representing the plaintiff if he or she was the attorney of record for the plaintiff at the time the action was commenced. [2010 c 8 § 3038; 1984 c 258 § 59; 1970 ex.s. c 83 § 2.]

Additional notes found at www.leg.wa.gov

12.40.027 Removal to superior court—Restrictions—Simultaneous maintenance of claims—Joinder of claims on appeal. RCW 4.14.010 regarding removal of actions to superior court shall not apply to cases originally filed in small claims court, or transferred to the small claims court pursuant to RCW 12.40.025. No defendant or third party defendant may remove a small claims case from small claims court as a matter of right by merely filing a claim or counterclaim or other request for relief that is beyond the jurisdiction of the small claims court. Claims, counterclaims, or other requests for relief filed by a defendant or third party defendant in excess of the jurisdiction of small claims court may be maintained simultaneously in superior court as a separate action brought by such defendant or third party defendant. Such a superior court action does not affect the jurisdiction of the small claims court to hear the original small claims case. The decision of the small claims court shall have no preclusive effect on a superior court action brought pursuant to this section. If the small claims case is appealed, it shall be automatically joined with any superior court case filed pursuant to this section, and the procedures set forth in RCW 12.36.055 shall not apply.

Nothing in this section may be construed to limit the small claims court from transferring a small claims case to district court or superior court after notice and hearing. [1997 c 352 § 5.]

12.40.030 Setting case for hearing—Notice—Time of trial. Upon filing of a claim, the court shall set a time for hearing on the matter. The court shall issue a notice of the claim which shall be served upon the defendant to notify the defendant of the hearing date. A trial need not be held on this first appearance, if dispute resolution services are offered

instead of trial, or local practice rules provide that trials will be held on different days. [1997 c 352 § 1; 1984 c 258 § 60; 1981 c 330 § 3; 1980 c 162 § 11; 1963 c 123 § 2; 1919 c 187 § 3; RRS § 1777-3.]

Additional notes found at www.leg.wa.gov

12.40.040 Service of notice of claim—Fee. The notice of claim can be served either as provided for the service of summons or complaint and notice in civil actions or by registered or certified mail if a return receipt with the signature of the party being served is filed with the court. No other legal document or process is to be served with the notice of claim. Information from the court regarding the small claims department, local small claims procedure, dispute resolution services, or other matters related to litigation in the small claims department may be included with the notice of claim when served.

The notice of claim shall be served promptly after filing the claim. Service must be complete at least ten days prior to the first hearing.

The person serving the notice of claim shall be entitled to receive from the plaintiff, besides mileage, the fee specified in RCW 36.18.040 for such service; which sum, together with the filing fee set forth in RCW 12.40.020, shall be added to any judgment given for plaintiff. [1997 c 352 § 2; 1984 c 258 § 61; 1981 c 194 § 3; 1970 ex.s. c 83 § 3; 1959 c 263 § 9; 1919 c 187 § 4; RRS § 1777-4.]

Additional notes found at www.leg.wa.gov

12.40.045 Recovery of fees as court costs. In the event persons other than the sheriff or duly appointed deputies charge a fee for services in excess of the fees allowed under RCW 36.18.040, the prevailing party incurring such charges shall be entitled to recover as court costs only the amount of the fees for such services as provided in RCW 36.18.040. [1981 c 194 § 4.]

Additional notes found at www.leg.wa.gov

12.40.050 Requisites of claim. A claim filed in the small claims department shall contain: (1) The name and address of the plaintiff; (2) a statement, in brief and concise form, of the nature and amount of the claim and when the claim accrued; and (3) the name and residence of the defendant, if known to the plaintiff, for the purpose of serving the notice of claim on the defendant. [1984 c 258 § 62; 1919 c 187 § 5; RRS § 1777-5.]

Additional notes found at www.leg.wa.gov

12.40.060 Requisites of notice. The notice of claim directed to the defendant shall contain: (1) The name and address of the plaintiff; (2) a brief and concise statement of the nature and amount of the claim; (3) a statement directing and requiring defendant to appear personally in the small claims department at a time certain, which shall not be less than five days from the date of service of the notice; and (4) a statement advising the defendant that in case of his or her failure to appear, judgment will be given against defendant for the amount of the claim. [1984 c 258 § 63; 1981 c 331 § 11; 1919 c 187 § 6; RRS § 1777-6.]

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

Additional notes found at www.leg.wa.gov

12.40.070 Verification of claim. A claim must be verified by the real claimant, and no claim shall be filed or prosecuted in the small claims department by the assignee of the claim. [1984 c 258 § 64; 1919 c 187 § 7; RRS § 1777-7.]

Additional notes found at www.leg.wa.gov

12.40.080 Hearing. (1) No attorney-at-law, legal paraprofessional, nor any person other than the plaintiff and defendant, shall appear or participate with the prosecution or defense of litigation in the small claims department without the consent of the judicial officer hearing the case. A corporation may not be represented by an attorney-at-law or legal paraprofessional except as set forth in RCW 12.40.025.

(2) In the small claims department it shall not be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf by witnesses appearing at trial.

(3) The judge may informally consult witnesses or otherwise investigate the controversy between the parties and give judgment or make such orders as the judge may deem to be right, just, and equitable for the disposition of the controversy. [1997 c 352 § 3; 1991 c 71 § 2; 1984 c 258 § 65; 1981 c 331 § 12; 1919 c 187 § 8; RRS § 1777-8.]

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

Additional notes found at www.leg.wa.gov

12.40.090 Informal pleadings. A formal pleading, other than the claim and notice, shall not be necessary to define the issue between the parties. The hearing and disposition of the actions shall be informal, with the sole object of dispensing speedy and quick justice between the litigants. An attachment, garnishment or execution shall not issue from the small claims department on any claim except as provided in this chapter. [1984 c 258 § 66; 1919 c 187 § 9; RRS § 1777-9.]

Additional notes found at www.leg.wa.gov

12.40.100 Payment of monetary judgment. If a monetary judgment or order is entered, it shall be the judgment debtor's duty to pay the judgment upon such terms and conditions as the judge shall prescribe. If the judgment is not paid to the prevailing party at the time the judgment is entered and the judgment debtor is present in court, the court may order a payment plan. [1984 c 258 § 67; 1983 c 254 § 1; 1919 c 187 § 10; RRS § 1777-10.]

Additional notes found at www.leg.wa.gov

12.40.105 Increase of judgment upon failure to pay. If the losing party fails to pay the judgment within thirty days or within the period otherwise ordered by the court, the judgment shall be increased by: (1) An amount sufficient to cover costs of certification of the judgment under RCW 12.40.110; (2) the amount specified in RCW 36.18.012(2); and (3) any other costs incurred by the prevailing party to enforce the judgment, including but not limited to reasonable attorneys' fees, without regard to the jurisdictional limits on the small claims department. [2004 c 70 § 1; 1998 c 52 § 5; 1995 c 292 § 5; 1983 c 254 § 2.]

Additional notes found at www.leg.wa.gov

12.40.110 Procedure on nonpayment. (1) If the losing party fails to pay the judgment according to the terms and conditions thereof within thirty days or is in arrears on any payment plan, and the prevailing party so notifies the court, the court shall certify the judgment in substantially the following form:

Washington.

In the District Court of County.

. Plaintiff,

vs.

. Defendant.

In the Small Claims Department.

This is to certify that: (1) In a certain action on the day of (year) , wherein was plaintiff and defendant, jurisdiction of said defendant having been had by personal service (or otherwise) as provided by law, judgment was entered against in the sum of dollars; (2) the judgment has not been paid within thirty days or the period otherwise ordered by the court; and (3) pursuant to RCW 12.40.105, the amount of the judgment is hereby increased by any costs of certification under this section and the amount specified in RCW 36.18.012(2).

Witness my hand this day of, (year)

.
Clerk of the Small Claims Department.

(2) The clerk shall forthwith enter the judgment transcript on the judgment docket of the district court; and thereafter garnishment, execution, and other process on execution provided by law may issue thereon, as in other judgments of district courts.

(3) Transcripts of such judgments may be filed and entered in judgment lien dockets in superior courts with like effect as in other cases. [2016 c 202 § 19; 1998 c 52 § 6; 1995 c 292 § 6; 1984 c 258 § 68; 1983 c 254 § 3; 1975 1st ex.s. c 40 § 1; 1973 c 128 § 2; 1919 c 187 § 11; RRS § 1777-11.]

Inclusion of reasonable costs and attorneys' fees in execution: RCW 6.17.110.

Additional notes found at www.leg.wa.gov

12.40.120 Appeals—Setting aside judgments. No appeal shall be permitted from a judgment of the small claims department of the district court where the amount claimed was less than two hundred fifty dollars. No appeal shall be permitted by a party who requested the exercise of jurisdiction by the small claims department where the amount claimed by that party was less than one thousand dollars. A party in default may seek to have the default judgment set aside according to the court rules applicable to setting aside judgments in district court. [1997 c 352 § 4; 1988 c 85 § 2; 1984 c 258 § 69; 1970 ex.s. c 83 § 4.]

Additional notes found at www.leg.wa.gov

12.40.800 Small claims informational brochure—Preparation and distribution. The administrator for the courts and the district and municipal court judges' association

shall prepare a model small claims informational brochure and distribute the model brochure to all small claims departments in the state. This brochure may be modified as necessary by each small claims department and shall be made available to all parties in any small claims action. [1994 c 32 § 7; 1988 c 85 § 3.]

