

Table of Contents

Volume 14

A. GENERAL MATTERS

CHAPTER 1. INTRODUCTION, SCOPE OF VOLUMES 14, 14A, AND 15

§ 1:4 Related subjects in other volumes of Washington practice

B. JURISDICTION

CHAPTER 3. SUBJECT MATTER JURISDICTION

A. IN GENERAL

§ 3:1 Subject matter jurisdiction, generally

§ 3:2 Jurisdiction to hear and determine a specific case or portion of
case

B. SUPERIOR COURT

§ 3:3 Superior court—Generally

§ 3:4 Superior court—Extraordinary writs

§ 3:5 Superior court—Property disputes, unlawful detainer

§ 3:6 Superior court—Probate

§ 3:7 Superior court—Family law, family court

§ 3:9 Superior court—Review of administrative agencies

§ 3:10 Superior court—Federal claims, maritime claims

§ 3:13 Superior court—Court commissioners and review thereof

C. COURTS OF LIMITED JURISDICTION

§ 3:16 District court—Generally

§ 3:18 Lack of jurisdiction—Effect—Transfer from district court to
superior court

§ 3:20 Indian tribal courts

D. CHALLENGES TO SUBJECT MATTER JURISDICTION

§ 3:21 Challenges to subject matter jurisdiction—Generally

§ 3:22 Challenges to subject matter jurisdiction—Forum non
conveniens, interstate comity

E. OTHER

§ 3:24 Law review articles and other commentary on subject matter
jurisdiction

CHAPTER 4. PERSONAL JURISDICTION

A. GENERALLY

§ 4:2 Notice and opportunity to be heard

B. LONG-ARM STATUTE

§ 4:9 Long-arm jurisdiction—Transacting business—Arising from act
or transaction

§ 4:10 Long-arm jurisdiction—Transacting business—Fair play and
substantial justice

C. DOING BUSINESS

§ 4:25 Jurisdiction based upon doing business (general jurisdiction)—
Introduction and overview

D. JURISDICTION THROUGH CONSENT

§ 4:32 Jurisdiction through consent—Forum selection clauses—Effect
of appearance

F. CHALLENGES TO PERSONAL JURISDICTION

§ 4:37 Challenges to personal jurisdiction—Generally—Timing—
Special appearance unnecessary

§ 4:42 Challenges to personal jurisdiction—Burden of proof regarding
transaction of business in Washington

§ 4:43 Challenges to personal jurisdiction—Waiver of objection by
seeking affirmative relief

§ 4:44 Challenges to personal jurisdiction—Waiver by engaging in
discovery or other conduct inconsistent with an intent to seek
a dismissal

G. OTHER

§ 4:46 Law review articles and other commentary on personal
jurisdiction

C. COMMENCEMENT OF ACTION

**CHAPTER 6. VENUE AND CHANGE OF
VENUE**

§ 6:1 Generally—Venue distinguished from jurisdiction

§ 6:5 Actions involving real property

TABLE OF CONTENTS

- § 6:9 Action by or against a county
- § 6:11 Actions against public officers
- § 6:14 Other special actions or proceedings
- § 6:15 Agreements relating to venue—Forum selection clauses
- § 6:17 Change of venue—Filed in wrong county
- § 6:18 Change of venue—Impartial trial impossible
- § 6:22 Change of venue—Procedure—Time for objection—Waiver
- § 6:23 Change of venue—Affidavit of merits

CHAPTER 7. COMMENCEMENT OF ACTION, MECHANICS

- § 7:1 Generally—Filing vs. service of process
- § 7:4 Service without filing
- § 7:6 Filing, filing fee
- § 7:7 Case information cover sheet
- § 7:14 Commencement in multiple courts—Competing courts

CHAPTER 8. SERVICE OF PROCESS

A. GENERAL CONSIDERATIONS

- § 8:1 Service of process, generally—Statutory requirements are jurisdictional
- § 8:2 Form and content of summons, specified response time

B. PERSONAL SERVICE

- § 8:6 Personal service upon individuals—Service at defendant's place of abode
- § 8:11 Service upon insurers, banks, and other business entities; sole proprietorships
- § 8:14 Service in motor vehicle accident cases
- § 8:15 Service under other specialized statutes

E. PROOF OF SERVICE, CHALLENGES TO SERVICE, SECOND ATTEMPTS

- § 8:32 Proof of service
- § 8:33 Proof of service vs. fact of service

F. OTHER

- § 8:37 Service in foreign countries—Hague Convention
- § 8:39 Law review articles and other commentary on service of process

CHAPTER 9. APPEARANCE AND DEFAULT

A. APPEARANCE

- § 9:2 What constitutes an appearance
- § 9:4 Appearance by Attorney—Generally
- § 9:6 Pro se appearance

B. DEFAULT ORDERS AND JUDGMENTS

- § 9:9 Motion for order of default, notice
- § 9:19 Default judgment—Amount uncertain

C. VACATING DEFAULT ORDERS AND JUDGMENTS

- § 9:23 Vacating default orders
- § 9:26 Factors considered by court—Meritorious defense
- § 9:27 Factors considered by court—Reason for defendant’s failure to appear
- § 9:30 Relative significance of the four factors
- § 9:31 Challenges to jurisdiction after entry of default judgment

CHAPTER 10. TRIAL DATE, TRIAL JUDGE, CASE SCHEDULE, DEMAND FOR JURY

- § 10:2 Continuance—Generally
- § 10:8 Change of judge (formerly affidavit of prejudice)—Generally
- § 10:9 Change of judge—Timeliness—One change per party
- § 10:11 Change of judge—Disqualification of judge for bias—Recusal
- § 10:12 Right to jury trial—Generally—Law vs. equity
- § 10:13 Legal and equitable issues in same case—History—Summary of current law
- § 10:14 Demand for jury trial
- § 10:19 Law review articles and other commentary

D. PARTIES AND PLEADING

CHAPTER 11. PARTIES AND THIRD-PARTY PRACTICE

A. PARTIES GENERALLY

- § 11:2 Real party in interest—Generally—Standing and other requirements compared
- § 11:3 Real party in interest—General principles, identification in complaint

B. COMPULSORY JOINDER

- § 11:17 Compulsory joinder—Generally—Terminology

E. INTERVENTION

- § 11:45 Intervention as of right—Interest test
- § 11:46 Permissive intervention

I. CLASS ACTIONS

- § 11:68 General requirements—Numerosity
- § 11:69 General requirements—Commonality

TABLE OF CONTENTS

- § 11:72 General requirements—Standing
- § 11:76 Class actions maintainable—CR 23(b)(3)
- § 11:77 Practice and procedure—Jurisdiction, choice of law
- § 11:80 Practice and procedure—Burden on motion for class certification—Ruling on motion—Appeal
- § 11:84 Notice and opt-out requirements
- § 11:90 Judgment, binding effect
- § 11:95 Law review articles and other commentary on class actions

CHAPTER 12. PLEADINGS

A. GENERAL RULES OF PLEADING

- § 12:2 Complaints and other claims for relief—Generally
- § 12:3 Complaints and other claims for relief—Amount of specificity required
- § 12:4 Joinder of claims—Claim splitting prohibited
- § 12:6 Answer—Time limits
- § 12:10 Form of pleadings, signing and dating, verification, citations to authority

B. SPECIFIC CLAIMS AND DEFENSES

- § 12:17 Pleading affirmative defenses and setoffs

C. CHALLENGES TO SUFFICIENCY OF PLEADINGS

- § 12:24 Motion to dismiss for failure to state a claim—Traditional rules
- § 12:29 Motion for judgment on the pleadings

D. AMENDED AND SUPPLEMENTAL PLEADINGS

- § 12:36 Amendments—When allowed—Procedure
- § 12:38 Amendments to conform to the evidence
- § 12:41 Relation back of amendments—Amendments adding or changing parties
- § 12:43 Implementing amendments to pleadings, mechanics

E. DISCOVERY AND RELATED MATTERS

CHAPTER 13. DISCOVERY, GENERALLY

- § 13:2 Methods and scope of discovery; relevance; identity of witnesses
- § 13:4 Scope of discovery—Privilege, statutory, and constitutional
- § 13:8 Work product—Generally
- § 13:10 Work product—What is protected
- § 13:11 Work product—In anticipation of litigation
- § 13:12 Work product—When court may order disclosure
- § 13:13 Work product—Attorney’s theories, strategies, and the like

- § 13:14 Work product—Waiver by disclosure to lay witness or expert
- § 13:21 Health care information—Definitions and scope of state statute
- § 13:22 Health care information—Discovery under state statute
- § 13:23 Health care information—Federal HIPAA rules
- § 13:25 Sequence and timing of discovery
- § 13:30 Public access to discovery materials; right-to-know legislation

CHAPTER 16. DEPOSITIONS

A. DEPOSITIONS GENERALLY

- § 16:1 Depositions generally
- § 16:2 Kinds of depositions—Perpetuation vs. discovery

B. INITIATING THE DEPOSITION

- § 16:6 Notice of deposition
- § 16:8 Place of deposition

C. COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS

- § 16:11 Compelling attendance of party
- § 16:12 Compelling attendance of nonparty—Generally

D. CONDUCT OF DEPOSITION

- § 16:18 Record of testimony, telephone, videotape

CHAPTER 17. REQUESTS FOR ADMISSION

- § 17:14 Timing, service, and filing of responses

CHAPTER 18. DISCOVERY OF DOCUMENTS AND OTHER TANGIBLE THINGS

- § 18:3 Discovery of electronically stored documents and information

CHAPTER 21. JUDICIAL REGULATION OF DISCOVERY, SANCTIONS

A. GENERALLY

- § 21:4 Constitutional limitations on discovery and the imposition of sanctions

B. MOTIONS TO COMPEL DISCOVERY

- § 21:7 Applicable rules, grounds for motion, procedure

C. PROTECTIVE ORDERS

- § 21:13 Applicable rules, grounds for motion

TABLE OF CONTENTS

§ 21:14 Who may file motion, procedure, burden on motion

D. DISCOVERY SANCTIONS

§ 21:19 Discovery sanctions for failure to comply with discovery order—Applicable rules

§ 21:22 “Harsh” sanctions, generally

§ 21:24 Dismissal as a discovery sanction

§ 21:25 Default judgment as a discovery sanction

§ 21:35 Sanctions for destruction of evidence (spoliation)

§ 21:38 Law review articles and other commentary on discovery

Volume 14A

F. PRETRIAL MOTIONS AND RELATED MATTERS

CHAPTER 22. MOTIONS, GENERALLY

§ 22:1 Introduction and overview

§ 22:3 Filing and serving motions

§ 22:5 Required notice—Notice of motion

§ 22:9 Content of motion

§ 22:10 Form, style, and length of motion

§ 22:11 Supporting evidence—Affidavits and declarations

§ 22:16 Response to motion and reply

§ 22:21 Order following motion—Generally

§ 22:24 Ex parte motions

§ 22:25 Reconsideration

CHAPTER 23. MOTION TO DISMISS

§ 23:14 Involuntary dismissal—For insufficient evidence—After plaintiff rests

CHAPTER 24. JUDGMENT AS A MATTER OF LAW

§ 24:5 Sufficiency of the evidence—General rules—Special rules

§ 24:18 Procedure—Motion at end of all evidence—Motion by defendant

§ 24:25 Appeal

CHAPTER 25. SUMMARY JUDGMENT

§ 25:1 Summary judgment, generally

§ 25:3 Timing and procedure

§ 25:4 Motion, response, and supporting materials—Generally

§ 25:5 Affidavits and declarations—Generally

§ 25:6 Affidavits and declarations—Required in response to motion

§ 25:7 Affidavits and declarations—Facts must be admissible as evidence

§ 25:9 Affidavits and declarations—Expert opinion

- § 25:12 Burden on motion
- § 25:13 Judgment for nonmoving party
- § 25:14 Whether the case presents a genuine issue of material fact—
Generally
- § 25:15 Quantum of evidence needed to overcome motion for summary
judgment
- § 25:16 Issues of credibility
- § 25:17 Whether the case presents a genuine issue of material fact—
Specific applications
- § 25:18 Whether moving party is entitled to judgment as a matter of
law
- § 25:20 Cross motions, effect
- § 25:21 When supporting materials are filed late or are unavailable,
continuances
- § 25:23 Form of order and judgment, findings, and conclusions
- § 25:26 Judgment on fewer than all claims or parties (partial
summary judgment)
- § 25:28 Motion to reconsider or vacate
- § 25:29 Appeal from summary judgment

CHAPTER 26. RECONSIDERATION OR VACATION OF DECISIONS ON DISPOSITIVE MOTIONS

- § 26:5 Motion to vacate—Timing and procedure

CHAPTER 27. PRETRIAL CONFERENCES AND PROCEDURES

- § 27:10 Sanctions for noncompliance

CHAPTER 28. OTHER PRETRIAL MATTERS

A. CONSOLIDATION, SEPARATION, AND SEVERANCE

- § 28:3 Separation (bifurcation)

B. SUBPOENAS FOR TRIAL

- § 28:9 Compelling testimony by party
- § 28:16 Enforcement of subpoenas—Cases of hardship—Motions to
quash

C. MOTIONS IN LIMINE

- § 28:20 Pretrial motions concerning admissibility of evidence (motions
in limine)—Generally

TABLE OF CONTENTS

G. TRIAL

CHAPTER 29. THE JURY AND ITS SELECTION

- § 29:2 Jury source list, jury pool
- § 29:6 Voir dire examination—False answers or misconduct on voir dire
- § 29:9 Grounds for challenge—Implied bias
- § 29:13 Peremptory challenges—Generally—Permissible grounds
- § 29:19 Dismissal of juror during trial—Illness—Inattentiveness—Misconduct
- § 29:21 Law review articles and other commentary on jury selection

CHAPTER 30. THE TRIAL

A. TRIALS GENERALLY

- § 30:1 Generally—Roles of judge, jury, and bailiff

B. EVIDENCE, BURDEN OF PROOF

- § 30:6 Evidence generally

C. TRIAL PROCEDURE

- § 30:27 Closing argument—Preservation of error—Appeal
- § 30:28 Sequestration of jury

D. WITNESSES

- § 30:33 Court-appointed interpreters and requests for accommodation
[Retitled]

E. MISCONDUCT, PREJUDICIAL EVENTS

- § 30:34 Misconduct of counsel
- § 30:37 Misconduct of jurors
- § 30:38 Misconduct of judge—Comment on evidence—Other improprieties
- § 30:42 Remedy for misconduct or other prejudice—Mistrial vs. new trial

CHAPTER 31. JURY INSTRUCTIONS

- § 31:2 Washington Pattern Jury Instructions
- § 31:4 Proposed instructions—Foundations for appeal—Waiver
- § 31:6 Proposed instructions—Objections (exceptions) to instructions proposed or given
- § 31:9 Content of instructions—Generally
- § 31:12 Content of instructions—Theories of the parties
- § 31:17 Content of instructions—Appellate review
- § 31:19 Supplementation or clarification of instructions

CHAPTER 32. JURY DELIBERATIONS AND VERDICT

- § 32:16 Special verdicts—Inconsistencies
- § 32:29 Challenge to verdict—Other juror misconduct—Practice

CHAPTER 33. NONJURY TRIALS

- § 33:1 In general
- § 33:14 Reopening case or amending findings after entry of judgment

CHAPTER 34. FOUNDATIONS FOR APPEAL

A. TRIAL COURT RECORD

- § 34:1 Necessity of objection and adequate record—Generally
- § 34:2 Necessity of objection and adequate record—Affirm on any theory
- § 34:3 Necessity of objection and adequate record—Posttrial motions
- § 34:4 Errors that may be raised for first time on appeal—Lack of jurisdiction
- § 34:14 Specific applications—Findings

B. THE DECISION WHETHER TO APPEAL

- § 34:21 Alternatives to appeal—Motion for new trial or reconsideration

C. WHAT DECISIONS ARE APPEALABLE

- § 34:25 What may be appealed—Generally
- § 34:26 What may be appealed—Final judgment, order, or decree—Attorney's fees pending
- § 34:31 What may be appealed—Contempt orders
- § 34:32 Nonappealable orders—Generally

H. JUDGMENTS, COSTS, AND ATTORNEY FEES

CHAPTER 35. JUDGMENTS

A. JUDGMENT GENERALLY

- § 35:1 Judgments generally
- § 35:2 Content and form of judgment
- § 35:13 Interest on judgment

B. RES JUDICATA

- § 35:23 Necessity of valid final judgment on merits
- § 35:24 Res judicata (claim preclusion)—Generally
- § 35:25 Res judicata (claim preclusion)—Identity of subject matter
- § 35:27 Res judicata (claim preclusion)—Identity and quality of parties (persons bound)

TABLE OF CONTENTS

- § 35:28 Res judicata (claim preclusion)—Other illustrative holdings
- § 35:29 Res judicata (claim preclusion)—Exceptions to rule of res judicata
- § 35:31 Res judicata (claim preclusion)—Judgment based on judgment subsequently reversed

C. COLLATERAL ESTOPPEL

- § 35:32 Collateral estoppel (issue preclusion)—Generally
- § 35:33 Collateral estoppel (issue preclusion)—Identity of issues
- § 35:35 Collateral estoppel (issue preclusion)—Party or privity with party (persons bound)
- § 35:36 Collateral estoppel (issue preclusion)—Avoiding injustice
- § 35:37 Collateral estoppel (issue preclusion)—Other illustrative cases

D. SPECIFIC APPLICATIONS OF RES JUDICATA AND COLLATERAL ESTOPPEL

- § 35:46 Specific applications—Other dismissals
- § 35:50 Specific applications—Criminal judgment in later civil case
- § 35:51 Specific applications—Administrative proceedings
- § 35:52 Specific applications—Arbitration proceedings

E. RELATED DOCTRINES

- § 35:56 Related doctrines—Stare decisis—Retroactivity of appellate opinions
- § 35:57 Related doctrines—Law of the case
- § 35:59 Related doctrines—Preclusion of inconsistent positions (judicial estoppel)

CHAPTER 36. COSTS

- § 36:3 Prevailing party—In general

CHAPTER 37. ATTORNEY'S FEES AS AN ELEMENT OF COSTS

- § 37:1 Reasonable attorney's fees—Generally—Prevailing party
- § 37:2 Damages and restitution distinguished
- § 37:6 Basis for award—Contracts generally
- § 37:7 Basis for award—Insurance contracts—*Olympic Steamship*
- § 37:8 Basis for award—Settlement offer under RCW 4.84.250
- § 37:9 Basis for award—Settlement offer under CR 68
- § 37:13 Basis for award—Other statutes
- § 37:14 Basis for award—Equitable rules, common fund
- § 37:15 Calculating the amount to be awarded—General rules—Lodestar method
- § 37:16 Calculating the amount to be awarded—Multiple claims, defenses or parties—Segregation of fees
- § 37:17 Calculating the amount to be awarded—Special rules
- § 37:20 Procedure for claiming attorney's fees
- § 37:21 Appeal on issue of attorney's fees

Volume 15

I. POSTTRIAL MOTIONS

CHAPTER 38. MOTION FOR NEW TRIAL OR RECONSIDERATION

- § 38:1 Introduction and overview
- § 38:4 Motion for new trial as foundation for appeal
- § 38:10 Grounds for new trial—Misconduct
- § 38:11 Grounds for new trial—Accident or surprise
- § 38:14 Grounds for new trial—Excessive or inadequate damages—Generally
- § 38:18 Grounds for new trial—Error of law
- § 38:23 Order on motion, court’s statement of reasons
- § 38:30 Appeal

CHAPTER 39. MOTIONS TO VACATE AND OTHER RELIEF FROM JUDGMENTS

- § 39:2 Motion to vacate—Introduction and overview—Amendment of judgment distinguished
- § 39:5 Motion to vacate—Grounds—Mistake, surprise, neglect, irregularities
- § 39:6 Motion to vacate—Grounds—Other
- § 39:12 Motion to vacate—Appeal from ruling on motion
- § 39:13 Vacation vs. modification of judgment

J. SPECIAL PROCEEDINGS OR FORMS OF RELIEF

CHAPTER 42. DECLARATORY JUDGMENTS

- § 42:2 Standing to sue—Generally
- § 42:3 Standing to sue—Questions of public importance
- § 42:4 Requirement of justiciable controversy—Generally
- § 42:5 Requirement of justiciable controversy—Questions of public importance
- § 42:7 Availability of other remedies, effect—Another remedy already invoked—Priority of action
- § 42:12 Statute of limitations, laches
- § 42:13 Jurisdiction, venue
- § 42:14 Parties—Generally
- § 42:22 Declaratory relief combined with other relief
- § 42:24 Costs and attorney’s fees
- § 42:27 Appeal

CHAPTER 43. CONTEMPT PROCEEDINGS

- § 43:6 Remedial sanctions—Generally—Remedial vs. punitive
- § 43:7 Remedial sanctions—Procedure
- § 43:8 Remedial sanctions—Sanctions available—Purge clause

TABLE OF CONTENTS

- § 43:10 Remedial sanctions—Indemnification of injured party
- § 43:18 Summary proceedings—Procedure—Sanctions available
- § 43:19 Inherent power of court
- § 43:21 Defenses

CHAPTER 44. INJUNCTIVE RELIEF

A. INTRODUCTION

- § 44:2 Injunctive relief and other relief in same case

B. SUBSTANTIVE REQUIREMENTS

- § 44:6 Authority to grant injunctive relief—Generally
- § 44:8 Authority to grant injunctive relief—Statutes
- § 44:9 Requirements for injunctive relief—Generally
- § 44:10 Requirements for injunctive relief—Inadequate remedy at law—Exhaustion of other remedies
- § 44:13 Requirements for injunctive relief—Balancing the equities

C. PROCEDURE

- § 44:21 Temporary restraining orders—Notice requirements—Hearing—Security

D. FORM, CONTENT, AND EFFECT OF INJUNCTIVE RELIEF

- § 44:32 Appeal

E. SPECIFIC APPLICATIONS

- § 44:35 Specific applications—Contract and commercial interests

CHAPTER 45. ACTIONS AGAINST THE STATE OF WASHINGTON

- § 45:12 Judgments against state

CHAPTER 46. ACTIONS AGAINST COUNTIES, CITIES, AND OTHER SUBDIVISIONS

- § 46:2 Nonjudicial claim as prerequisite to suit

CHAPTER 47. CIVIL (MANDATORY) ARBITRATION

- § 47:1 Introduction and overview
- § 47:2 Other forms of arbitration distinguished
- § 47:3 Details covered in other volumes

K. OTHER

CHAPTER 49. STIPULATIONS

§ 49:3 Permissible subject matter of stipulation

CHAPTER 50. SERVICE AND FILING AFTER ORIGINAL SERVICE OF PROCESS

§ 50:2 Filing generally

§ 50:6 Service by mail

§ 50:7 Service by fax, e-mail, or other electronic transmission

CHAPTER 51. RULE 11 SANCTIONS

§ 51:2 Rule 11 generally

§ 51:3 Scope of rule

§ 51:4 Signature of attorney or party

§ 51:7 CR 11 standards—Baseless filings

§ 51:8 CR 11 standards—Bad faith filings

§ 51:11 Sanctions—Notice, response, burden

§ 51:12 Sanctions—Amount, persons required to pay, findings, enforcement

§ 51:13 Alternatives to CR 11

CHAPTER 52. ATTORNEYS—APPEARANCE, WITHDRAWAL, SUBSTITUTION, AUTHORITY, FEES

§ 52:3 Authority of attorney—Generally

CHAPTER 53. SETTLEMENT, OFFERS OF JUDGMENT

A. SETTLEMENT GENERALLY

§ 53:2 Settlement documents

§ 53:5 Tort cases with multiple parties

§ 53:6 Authority to settle

CHAPTER 54. CHOICE OF LAW

§ 54:1 Substantive law

Table of Laws and Rules

Table of Cases

Index