

Chapter 4.28 RCW
COMMENCEMENT OF ACTIONS

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RCW 4.28.020 Jurisdiction acquired, when. From the time of the commencement of the action by service of summons, or by the filing of a complaint, or as otherwise provided, the court is deemed to have acquired jurisdiction and to have control of all subsequent proceedings. [1984 c 76 s 2; 1895 c 86 s 4; 1893 c 127 s 15; RRS s 238.]

RCW 4.28.080 Summons, how served. Service made in the modes provided in this section is personal service. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action is against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7)(a) If against an authorized foreign or alien insurance company, as provided in RCW 48.05.200.

(b) If against an unauthorized insurer, as provided in RCW 48.05.215 and 48.15.150.

(c) If against a reciprocal insurer, as provided in RCW 48.10.170.

(d) If against a nonresident surplus line broker, as provided in RCW 48.15.073.

(e) If against a nonresident insurance producer or title insurance agent, as provided in RCW 48.17.173.

(f) If against a nonresident adjuster, as provided in RCW 48.17.380.

(g) If against a fraternal benefit society, as provided in RCW 48.36A.350.

(h) If against a nonresident reinsurance intermediary, as provided in RCW 48.94.010.

(i) If against a nonresident life settlement provider, as provided in RCW 48.102.011.

(j) If against a nonresident life settlement broker, as provided in RCW 48.102.021.

(k) If against a service contract provider, as provided in RCW 48.110.030.

(l) If against a protection product guarantee provider, as provided in RCW 48.110.055.

(m) If against a discount plan organization, as provided in RCW 48.155.020.

(8) If against a represented entity as defined in RCW 23.95.400, service of process, notice, or demand required or permitted by law to be served on the entity may be made in accordance with RCW 23.95.450.

(9) If against a minor under the age of fourteen years, to such minor personally, and also to his or her father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed, if such there be.

(10) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(11) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(12) If against a self-insurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(13) If against a party to a real estate purchase and sale agreement under RCW 64.04.220, by mailing a copy by first-class mail, postage prepaid, to the party to be served at his or her usual mailing address or the address identified for that party in the real estate purchase and sale agreement.

(14) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

(15) In lieu of service under subsection (14) of this section, where the person cannot with reasonable diligence be served as described, the summons may be served as provided in this subsection, and shall be deemed complete on the tenth day after the required mailing: By leaving a copy at his or her usual mailing address with a person of suitable age and discretion who is a resident, proprietor, or agent thereof, and by thereafter mailing a copy by first-class mail, postage prepaid, to the person to be served at his or her usual mailing address. For the purposes of this subsection, "usual mailing address" does not include a United States postal service post office box or the person's place of employment. [2025 c 40 s 1; 2015 c 51 s 2; 2012 c 211 s 1; 2011 c 47 s 1; 1997 c 380 s 1; 1996 c 223 s 1; 1991 sp.s. c 30 s 28; 1987 c 361 s 1; 1977 ex.s. c 120 s 1; 1967 c 11 s 1; 1957 c 202 s 1; 1893 c 127 s 7; RRS s 226, part. FORMER PART OF SECTION: 1897 c 97 s 1 now codified in RCW 4.28.081.]

Rules of court: *Service of process—CR 4(d), (e).*

Effective date, implementation, application—1991 sp.s. c 30: See RCW 48.62.900.

Severability—1977 ex.s. c 120: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 120 s 3.]

Service of process on

foreign corporation: RCW 23B.15.100.

foreign savings and loan association: RCW 33.32.050.

nonadmitted foreign corporation: RCW 23B.18.040.

nonresident motor vehicle operator: RCW 46.64.040.

RCW 4.28.100 Service of summons by publication—When authorized.

When the defendant cannot be found within the state, and upon the filing of an affidavit of the plaintiff, his or her agent, or attorney, with the clerk of the court, stating that he or she believes that the defendant is not a resident of the state, or cannot be found therein, and that he or she has deposited a copy of the summons (substantially in the form prescribed in RCW 4.28.110) and complaint in the post office, directed to the defendant at his or her place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons, by the plaintiff or his or her attorney in any of the following cases:

(1) When the defendant is a nonregistered foreign entity as defined in RCW 23.95.105, and has property within the state;

(2) When the defendant, being a resident of this state, has departed therefrom with intent to defraud his or her creditors, or to avoid the service of a summons, or keeps himself or herself concealed therein with like intent;

(3) When the defendant is not a resident of the state, but has property therein and the court has jurisdiction of the subject of the action;

(4) When the action is for (a) establishment or modification of a parenting plan or residential schedule; or (b) dissolution of marriage, legal separation, or declaration of invalidity, in the cases prescribed by law;

(5) When the action is for nonparental custody under *chapter 26.10 RCW and the child is in the physical custody of the petitioner;

(6) When the subject of the action is real or personal property in this state, and the defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists wholly, or partly, in excluding the defendant from any interest or lien therein;

(7) When the action is to foreclose, satisfy, or redeem from a mortgage, or to enforce a lien of any kind on real estate in the county where the action is brought, or satisfy or redeem from the same;

(8) When the action is against any corporation, whether private or municipal, organized under the laws of the state, and the proper officers on whom to make service do not exist or cannot be found;

(9) When the action is brought under RCW 4.08.160 and 4.08.170 to determine conflicting claims to property in this state. [2025 c 40 s 2; 2011 c 336 s 97; 2005 c 117 s 1; 1981 c 331 s 13; 1953 c 102 s 1. Prior: 1929 c 81 s 1; 1915 c 45 s 1; 1893 c 127 s 9; RRS s 228.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 s 905. RCW 26.10.115 was repealed by 2021 c 215 s 170.

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

RCW 4.28.110 Manner of publication and form of summons. The publication shall be made in a newspaper of general circulation in the county where the action is brought once a week for six consecutive weeks: PROVIDED, That publication of summons shall not be made until after the filing of the complaint, and the service of the summons shall be deemed complete at the expiration of the time prescribed for publication. The summons must be subscribed by the plaintiff or his or her attorney or attorneys. The summons shall contain the date of the first publication, and shall require the defendant or defendants upon whom service by publication is desired, to appear and answer the complaint within sixty days from the date of the first publication of the summons; and the summons for publication shall also contain a brief statement of the object of the action. The summons for publication shall be substantially as follows:

In the superior court of the State of Washington for
the county of

....., Plaintiff,

vs.

No.

....., Defendant.

The State of Washington to the said (naming the
defendant or defendants to be served by publication):

You are hereby summoned to appear within sixty
days after the date of the first publication of this
summons, to wit, within sixty days after the day of
....., 1...., and defend the above entitled action in
the above entitled court, and answer the complaint of the
plaintiff, and serve a copy of your answer upon
the undersigned attorneys for plaintiff, at his (or
their) office below stated; and in case of your failure so
to do, judgment will be rendered against you according
to the demand of the complaint, which has been filed
with the clerk of said court. (Insert here a brief statement
of the object of the action.)

.....,
Plaintiff's Attorneys.

P.O. Address

County

Washington.

[2011 c 336 s 98; 1985 c 469 s 2; 1895 c 86 s 2; 1893 c 127 s 10; RRS
s 233.]

Publication of legal notices: Chapter 65.16 RCW.

RCW 4.28.120 Publication of notice in eminent domain proceedings. If a party having or claiming a share or interest in or lien upon any property sought to be appropriated for public use be unknown, and such fact be made to appear by affidavit filed in the office of the clerk of the court, the notice required by law in such cases may be served by publication as in the case of nonresident owners, and such notice shall be directed by name to every owner of a share or interest in or lien upon the property sought to be so appropriated, and generally to all persons unknown having or claiming an interest or estate in the property or any portion thereof, and all

such unknown parties shall in all papers and proceedings be designated as "unknown owners," and shall be bound by the provisions and be entitled to the benefits of the judgment the same as if they had been known and duly named. [1895 c 140 s 1; RRS s 239.]

Eminent domain: Title 8 RCW.

Publication of legal notices: Chapter 65.16 RCW.

RCW 4.28.140 Affidavit as to unknown heirs. Upon presenting an affidavit to the court or judge, showing to his or her satisfaction that the heirs of such deceased person are proper parties to the action, and that their names and residences cannot with use of reasonable diligence be ascertained, such court or judge may grant an order that service of the summons in such action be made on such "Unknown heirs" by publication thereof in the same manner as in actions against nonresident defendants. [2011 c 336 s 99; 1903 c 144 s 2; RRS s 230.]

Rules of court: *Cf. CR 10(a).*

RCW 4.28.150 Title of cause—Unknown claimants—Service by publication. In any action brought to determine any adverse claim, estate, lien, or interest in real property, or to quiet title to real property, the plaintiff may include as a defendant in such action, and insert in the title thereof, in addition to the names of such persons or parties as appear of record to have, and other persons or parties who are known to have, some title, claim, estate, lien, or interest in the lands in controversy, the following, viz.: "Also all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein." And service of summons may be had upon all such unknown persons or parties defendant by publication as provided by law in case of nonresident defendants. [1903 c 144 s 3; RRS s 231.]

Publication of legal notices: Chapter 65.16 RCW.

RCW 4.28.160 Rights of unknown claimants and heirs—Effect of judgment—Lis pendens. All such unknown heirs of deceased persons, and all such unknown persons or parties, so served by publication as in RCW 4.28.150, provided, shall have the same rights as are provided by law in case of all other defendants upon whom service is made by publication, and the action shall proceed against such unknown heirs, or unknown persons or parties, in the same manner as against defendants, who are named, upon whom service is made by publication, and with like effect; and any such unknown heirs or unknown persons or parties who have or claim any right, estate, lien, or interest in the said real property in controversy, at the time of the commencement of the action, duly served as aforesaid, shall be bound and concluded by the judgment in such action, if the same is in favor of the plaintiff therein as effectually as if the action was brought against such defendant by his or her name and constructive service of summons obtained: PROVIDED, HOWEVER, That such judgment shall not bind such

unknown heirs, or unknown persons or parties, defendant, unless the plaintiff shall file a notice of lis pendens in the office of the auditor of each county in which said real estate is located, in the manner provided by law, before commencing the publication of said summons. [1903 c 144 s 4; RRS s 232.]

RCW 4.28.180 Personal service out-of-state. Personal service of summons or other process may be made upon any party outside the state. If upon a citizen or resident of this state or upon a person who has submitted to the jurisdiction of the courts of this state, it shall have the force and effect of personal service within this state; otherwise it shall have the force and effect of service by publication. The summons upon the party out of the state shall contain the same and be served in like manner as personal summons within the state, except it shall require the party to appear and answer within sixty days after such personal service out of the state. [1959 c 131 s 1; 1895 c 86 s 3; 1893 c 127 s 11; RRS s 234.]

Rules of court: Cf. CR 4(e), CR 12(a), CR 82(a).

Service of process on nonresident motor vehicle operator: RCW 46.64.040.

RCW 4.28.185 Personal service out-of-state—Acts submitting person to jurisdiction of courts—Saving. (1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person, and, if an individual, his or her personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

- (a) The transaction of any business within this state;
- (b) The commission of a tortious act within this state;
- (c) The ownership, use, or possession of any property whether real or personal situated in this state;
- (d) Contracting to insure any person, property, or risk located within this state at the time of contracting;
- (e) The act of sexual intercourse within this state with respect to which a child may have been conceived;
- (f) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all proceedings authorized by chapter 26.09 RCW, so long as the petitioning party has continued to reside in this state or has continued to be a member of the armed forces stationed in this state.

(2) Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the defendant outside this state, as provided in RCW 4.28.180, with the same force and effect as though personally served within this state.

(3) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him or her is based upon this section.

(4) Personal service outside the state shall be valid only when an affidavit is made and filed to the effect that service cannot be made within the state.

(5) In the event the defendant is personally served outside the state on causes of action enumerated in this section, and prevails in the action, there may be taxed and allowed to the defendant as part of the costs of defending the action a reasonable amount to be fixed by the court as attorneys' fees.

(6) Nothing herein contained limits or affects the right to serve any process in any other manner now or hereafter provided by law.

[2011 c 336 s 100; 1977 c 39 s 1; 1975-'76 2nd ex.s. c 42 s 22; 1959 c 131 s 2.]

Rules of court: *Cf. CR 4(e), CR 12(a), CR 82(a).*

Uniform parentage act: Chapter 26.26A RCW.

RCW 4.28.200 Right of one constructively served to appear and defend or reopen. If the summons is not served personally on the defendant in the cases provided in RCW 4.28.110 and 4.28.180, he or she or his or her representatives, on application and sufficient cause shown, at any time before judgment, shall be allowed to defend the action and, except in an action for divorce, the defendant or his or her representative may in like manner be allowed to defend after judgment, and within one year after the rendition of such judgment, on such terms as may be just; and if the defense is successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs. [2011 c 336 s 101; 1893 c 127 s 12; RRS s 235.]

RCW 4.28.210 Appearance, what constitutes. A defendant appears in an action when he or she answers, demurs, makes any application for an order therein, or gives the plaintiff written notice of his or her appearance. After appearance a defendant is entitled to notice of all subsequent proceedings; but when a defendant has not appeared, service of notice or papers in the ordinary proceedings in an action need not be made upon him or her. Every such appearance made in an action shall be deemed a general appearance, unless the defendant in making the same states that the same is a special appearance. [2011 c 336 s 102; 1893 c 127 s 16; RRS s 241.]

Rules of court: *Demurrers abolished—CR 7(c).*

RCW 4.28.290 Assessment of damages without answer. A defendant who has appeared may, without answering, demand in writing an assessment of damages, of the amount which the plaintiff is entitled to recover, and thereupon such assessment shall be had or any such amount ascertained in such manner as the court on application may direct, and judgment entered by the clerk for the amount so assessed or ascertained. [1893 c 127 s 25; RRS s 251.]

RCW 4.28.320 Lis pendens in actions affecting title to real estate. At any time after an action affecting title to real property has been commenced, or after a writ of attachment with respect to real property has been issued in an action, or after a receiver has been

appointed with respect to any real property, the plaintiff, the defendant, or such a receiver may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he or she were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: PROVIDED, HOWEVER, That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by the personal service thereof on a defendant within sixty days after such filing. And the court in which the said action was commenced may, at its discretion, at any time after the action shall be settled, discontinued or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled of record, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be evidenced by the recording of the court order. [2004 c 165 s 33; 1999 c 233 s 1; 1893 c 127 s 17; RRS s 243.]

Purpose—Captions not law—2004 c 165: See notes following RCW 7.60.005.

Effective date—1999 c 233: "This act takes effect August 1, 1999." [1999 c 233 s 24.]

RCW 4.28.325 Lis pendens in actions in United States district courts affecting title to real estate. In an action in a United States district court for any district in the state of Washington affecting the title to real property in the state of Washington, the plaintiff, at the time of filing the complaint, or at any time afterwards, or a defendant, when he or she sets up an affirmative cause of action in his or her answer, or at any time afterward, if the same be intended to affect real property, may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action and a description of the real property in that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he or she were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: PROVIDED, HOWEVER, That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by personal service thereof on a defendant within sixty

days after such filing. And the court in which the said action was commenced may, in its discretion, at any time after the action shall be settled, discontinued, or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be evidenced by the recording of the court order. [2011 c 336 s 103; 1999 c 233 s 4; 1963 c 137 s 1.]

Effective date—1999 c 233: See note following RCW 4.28.320.

RCW 4.28.328 Lis pendens—Liability of claimants—Damages, costs, attorneys' fees. (1) For purposes of this section:

(a) "Lis pendens" means a lis pendens filed under RCW 4.28.320 or 4.28.325 or other instrument having the effect of clouding the title to real property, however named, including consensual commercial lien, common law lien, commercial contractual lien, or demand for performance of public office lien, but does not include a lis pendens filed in connection with an action under Title 6, 60, other than chapter 60.70 RCW, or 61 RCW;

(b) "Claimant" means a person who files a lis pendens, but does not include the United States, any agency thereof, or the state of Washington, any agency, political subdivision, or municipal corporation thereof; and

(c) "Aggrieved party" means (i) a person against whom the claimant asserted the cause of action in which the lis pendens was filed, but does not include parties fictitiously named in the pleading; or (ii) a person having an interest or a right to acquire an interest in the real property against which the lis pendens was filed, provided that the claimant had actual or constructive knowledge of such interest or right when the lis pendens was filed.

(2) A claimant in an action not affecting the title to real property against which the lis pendens was filed is liable to an aggrieved party who prevails on a motion to cancel the lis pendens, for actual damages caused by filing the lis pendens, and for reasonable attorneys' fees incurred in canceling the lis pendens.

(3) Unless the claimant establishes a substantial justification for filing the lis pendens, a claimant is liable to an aggrieved party who prevails in defense of the action in which the lis pendens was filed for actual damages caused by filing the lis pendens, and in the court's discretion, reasonable attorneys' fees and costs incurred in defending the action. [1994 c 155 s 1.]

RCW 4.28.330 Notice to alien property custodian. In any court or administrative action or proceeding within this state, involving property within this state or any interest therein, in which service of process is required to be made upon or notice thereof given to any person who is in a designated enemy country or enemy-occupied territory, in addition to the service of process upon or giving of notice to the person as required by any law, statute or rule applicable to the action or proceeding, a copy of the process or notice shall be sent by registered mail to the alien property

custodian, Washington, District of Columbia. [1943 c 62 s 1; Rem. Supp. 1943 s 254-1.]

RCW 4.28.340 Notice to alien property custodian—Definitions.

For the purposes of RCW 4.28.330 through 4.28.350:

(1) "Person" includes any individual, partnership, association and corporation;

(2) "Designated enemy country" means any foreign country as to which the United States has declared the existence of a state of war and any other country with which the United States is at war in the future;

(3) "Enemy-occupied territory" means any place under the control of any designated enemy country or any place with which, by reason of the existence of a state of war, the United States does not maintain postal communication. [1943 c 62 s 2; Rem. Supp. 1943 s 254-2.]

RCW 4.28.350 Notice to alien property custodian—Duration.

RCW 4.28.330 and 4.28.340 shall remain in force only so long as a state of war shall exist between the United States and the designated enemy country involved in the action or proceeding described in RCW 4.28.330. [1943 c 62 s 3; Rem. Supp. 1943 s 254-3.]

RCW 4.28.360 Personal injury action—Complaint not to include statement of damages—Request for statement. In any civil action for personal injuries, the complaint shall not contain a statement of the damages sought but shall contain a prayer for damages as shall be determined. A defendant in such action may at any time request a statement from the plaintiff setting forth separately the amounts of any special damages and general damages sought. Not later than fifteen days after service of such request to the plaintiff, the plaintiff shall have served the defendant with such statement. [1975-'76 2nd ex.s. c 56 s 2.]

Severability—1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

Actions and procedure for injuries resulting from health care: Chapter 7.70 RCW.

Verdict or award of future economic damages in personal injury or property damage action may provide for periodic payments: RCW 4.56.260.

RCW 4.28.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or

invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 s 11.]