

**RCW 4.56.120 Judgment of dismissal or nonsuit, grounds, effect—
Other judgments on merits.** An action in the superior court may be dismissed by the court and a judgment of nonsuit rendered in the following cases:

(1) Upon the motion of the plaintiff, (a) when the case is to be or is being tried before a jury, at any time before the court announces its decision in favor of the defendant upon a challenge to the legal sufficiency of the evidence, or before the jury retire to consider their verdict, (b) when the action, whether for legal or equitable relief, is to be or is being tried before the court without a jury, at any time before the court has announced its decision: PROVIDED, That no action shall be dismissed upon the motion of the plaintiff, if the defendant has interposed a setoff as a defense, or seeks affirmative relief growing out of the same transaction, or sets up a counterclaim, either legal or equitable, to the specific property or thing which is the subject matter of the action.

(2) Upon the motion of either party, upon the written consent of the other.

(3) When the plaintiff fails to appear at the time of trial and the defendant appears and asks for a dismissal.

(4) Upon its own motion, when, upon the trial and before the final submission of the case, the plaintiff abandons it.

(5) Upon its own motion, on the refusal or neglect of the plaintiff to make the necessary parties defendants, after having been ordered so to do by the court.

(6) Upon the motion of some of the defendants, when there are others whom the plaintiff fails to prosecute with diligence.

(7) Upon its own motion, for disobedience of the plaintiff to an order of the court concerning the proceedings in the action.

(8) Upon the motion of the defendant, when, upon the trial, the plaintiff fails to prove some material fact or facts necessary to sustain his or her action, as alleged in his or her complaint. When judgment of nonsuit is given, the action is dismissed, but such judgment shall not have the effect to bar another action for the same cause. In every case, other than those mentioned in this section, the judgment shall be rendered upon the merits and shall bar another action for the same cause. [2011 c 336 s 110; 1929 c 89 s 1; RRS ss 408, 409, 410. Formerly RCW 4.56.120, 4.56.130, and 4.56.140. Prior: Code 1881 ss 286, 287, 288; 1877 p 58 ss 290, 291, 292; 1869 p 69 ss 288, 289, 290; 1854 p 171 ss 223, 224.]

Rules of court: Cf. CR 41(a), (b).