

**Chapter 4.48 RCW
TRIAL BEFORE REFEREE**

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RCW 4.48.010 Reference by consent—Right to jury trial—Referee may not preside—Parties' written consent constitutes waiver of right. The court shall order all or any of the issues in a civil action, whether of fact or law, or both, referred to a referee upon the written consent of the parties which is filed with the clerk. Any party shall have the right in an action at law, upon an issue of fact, to demand a trial by jury. No referee appointed under this chapter may preside over a jury trial. The written consent of the parties constitutes a waiver of the right of trial by jury by any party having the right. [1984 c 258 § 512; Code 1881 § 248; 1854 p 168 § 206; RRS § 369. Formerly RCW 4.44.100, part, and 4.48.010.]

Rules of court: Cf. CR 38(a).

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.020 Reference without consent. Where the parties do not consent, the court may upon the application of either party, direct a reference in all cases formerly cognizable in chancery in which reference might be made:

(1) When the trial of an issue of fact shall require the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

(2) When the taking of an account shall be necessary for the information of the court, before judgment upon an issue of law, or for carrying a judgment or order into effect; or,

(3) When a question of fact other than upon the pleadings shall arise, upon motion or otherwise, in any stage of the action; or,

(4) When it is necessary for the information of the court in a special proceeding. [1984 c 258 § 513; Code 1881 § 249; 1877 p 51 § 253; 1869 p 61 § 253; 1854 p 168 § 207; RRS § 370.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.030 To whom reference may be ordered. A reference may be ordered to any person or persons not exceeding three, agreed upon by the parties. If the reference is not agreed to by the parties, the court may appoint one or more persons, not exceeding three. [1984 c 258 § 514; Code 1881 § 250; 1877 p 51 § 254; 1869 p 61 § 254; 1854 p 168 § 208; RRS § 371.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.040 Qualifications of referees. A person appointed by the court as a referee or who serves as a referee with the consent of the parties shall be:

(1) Qualified as a juror as provided by statute.

(2) Competent as juror between the parties.

(3) A duly admitted and practicing attorney. [1984 c 258 § 515; Code 1881 § 251; 1877 p 51 § 255; 1859 p 61 § 255; 1854 p 169 § 209; RRS § 372.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.050 Challenges to referees. If a referee is appointed by the court, each party shall have the same right to challenge the appointment. Challenges shall be made and determined in the same manner and with like effect as in the formation of juries, except that neither party shall be entitled to a peremptory challenge. [1984 c 258 § 516; Code 1881 § 252; 1877 p 52 § 256; 1869 p 61 § 256; RRS § 373.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.060 Trial procedure—Powers of referee—Referee to provide clerical personnel. (1) Subject to the limitations and directions prescribed in the order of reference, the trial conducted by a referee shall be conducted in the same manner as a trial by the court. Unless waived in whole or in part, the referee shall apply the rules of pleading, practice, procedure, and evidence used in the superior courts of this state. The referee shall have the same power to grant adjournments, administer oaths, preserve order, punish all violations thereof upon such trial, compel the attendance of

witnesses, and to punish them for nonattendance or refusal to be sworn or testify, as is possessed by the court.

(2) A referee appointed under RCW 4.48.010 shall provide clerical personnel necessary for the conduct of the proceeding, including a court reporter. [1984 c 258 § 517; Code 1881 § 253; 1877 p 52 § 257; 1869 p 62 § 257; 1854 p 169 § 210; RRS § 374.]

**Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258:** See notes following RCW 3.30.010.

RCW 4.48.070 Referee's report—Contents—Evidence, filing of, frivolous. The report of a referee appointed by the court under RCW 4.48.020 shall state the facts found, and when the order of reference includes an issue of law, it shall state the conclusions of law separately from the facts. The referee shall file with the report the evidence received upon the trial. If evidence offered by either party shall not be admitted on the trial and the party offering the same excepts to the decision rejecting such evidence at the time, the exceptions shall be noted by the referees and they shall take and receive such testimony and file it with the report. Whatever judgment the court may give upon the report, it shall, when it appears that such evidence was frivolous and inadmissible, require the party at whose instance it was taken and reported, to pay all costs and disbursements thereby incurred. [1984 c 258 § 518; Code 1881 § 254; 1877 p 52 § 258; 1869 p 62 § 258; 1854 p 169 § 210; RRS § 375.]

**Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258:** See notes following RCW 3.30.010.

RCW 4.48.080 Proceedings on filing of report. The report of a referee appointed by the court under RCW 4.48.020 shall be filed with the clerk within twenty days after the trial concludes. Either party may, within such time as may be prescribed by the rules of court, or by special order, move to set the same aside, or for judgment thereon, or such order or proceeding as the nature of the case may require. [1984 c 258 § 519; 1957 c 9 § 3; Code 1881 § 255; 1877 p 52 § 259; 1869 p 62 § 259; RRS § 376.]

**Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258:** See notes following RCW 3.30.010.

RCW 4.48.090 Judgment on referee's report. The court may affirm or set aside the report of a referee appointed under RCW 4.48.020 either in whole or in part. If it affirms the report it shall give judgment accordingly. If the report be set aside, either in whole or in part, the court may make another order of reference as to all or so much of the report as is set aside, to the original referees or others, or it may find the facts and determine the law itself and give judgment accordingly. Upon a motion to set aside a report, the conclusions thereof shall be deemed and considered as the verdict of the jury. [1984 c 258 § 520; Code 1881 § 256; 1877 p 52 § 260; 1869 p 62 § 260; RRS § 377.]

Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.100 Compensation of referee—Trial expense—Obligation of parties, when. (1) The compensation of a referee appointed under RCW 4.48.020 shall be the same as that established for a superior court judge pro tempore under RCW 2.08.180.

(2) If a referee is appointed pursuant to RCW 4.48.010, the referee's compensation shall be at the rate prescribed by subsection (1) of this section, unless otherwise agreed to by the parties.

(3) Payment of the compensation of a referee appointed under RCW 4.48.010 and the expense of the trial before the referee shall be the obligation of the parties. The obligation shall be borne equally unless the parties agree to a different allocation. [1984 c 258 § 524; Code 1881 § 514; 1877 p 109 § 518; 1854 p 202 § 376; RRS § 483.]

Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258: See notes following RCW 3.30.010.

Supplemental proceedings, fees of referees: RCW 6.32.280.

RCW 4.48.110 Referee's proposed report—Copies—Objections, etc.—Request for hearing—Final report—Additional items to be filed—

Exception—Copies. (1) Within twenty days after the conclusion of a trial before a referee appointed under RCW 4.48.010, unless a later time is agreed to by the parties, the referee shall mail to each party a copy of the referee's proposed written report. The proposed report shall contain the findings of fact and conclusions of law by the referee and the judgment of the referee.

(2) Within ten days after receipt of the copy of the proposed report, any party may serve written objections and suggested modifications or corrections to the proposed report on the referee and the other parties. The referee shall without delay consider the objections and suggestions and prepare a final written report. If requested by any party, the referee shall conduct a hearing on the proposed report and any suggested corrections or modifications before preparing the final written report.

(3) Upon completion of the final written report, the referee shall file with the clerk of the superior court:

(a) Copies of all original papers in the action filed with the referee;

(b) Exhibits offered and received or rejected during the trial;

(c) The transcript of the proceedings in the trial; and

(d) The final written report containing the findings of fact and conclusions of law by the referee and the judgment of the referee.

(4) The presiding judge of the superior court may allow the referee to file the final written report under subsection (3) of this section without any of the items listed in subsection (3) (a) through (c) of this section. However, the presiding judge shall require the referee to file those items if a timely notice of appeal of the judgment is filed.

(5) When the referee files the written report under subsection (3) of this section, the referee shall also mail to each party a copy of the report. [1984 c 258 § 521.]

Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.120 Termination of referral—Judgment—Review of referee's decision. (1) Upon receipt by the clerk of the court of the final written report filed under RCW 4.48.110, the referral of the action shall terminate and the presiding judge of the superior court shall order the judgment contained in the report entered as the judgment of the court in the action. Subsequent motions and other post trial proceedings in the action may be conducted and disposed of by the referee upon order of the presiding judge, in the discretion of the presiding judge, or may otherwise be assigned by the presiding judge.

(2) The decision of a referee entered as provided in this section may be reviewed in the same manner as if the decision was made by the court. [1984 c 258 § 522.]

Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.130 Notice of trial before referee. (1) If an action is to be tried by a referee appointed under RCW 4.48.010, at least five days before the date set for the trial the referee shall advise the clerk of the court of the time and place set for the trial. The clerk shall post in a conspicuous place in the courthouse a notice that includes the names of the parties to the action, the time and place set for the trial, the name of the referee, and a statement that the proceeding is being held before a referee agreed to by the parties under chapter 4.48 RCW.

(2) A person interested in attending a trial before a referee appointed under RCW 4.84.010 [4.48.010] is entitled to do so as in a trial of a civil action in superior court. Upon request by any person, the referee shall give the person notice of the time and place set for the trial. [1984 c 258 § 523.]

Court Improvement Act of 1984—Effective dates—Severability—
Short title—1984 c 258: See notes following RCW 3.30.010.