

WASHINGTON CASE UPDATE

Assert Your Counterclaims Timely or Forfeit Them Forever

From the desk of Kyle Riley: Under Washington law, if the defendant fails to plead a compulsory counterclaim in the original suit, the defendant will be prohibited from asserting its compulsory counterclaim in a later suit. Will this rule bar a defendant in a motor vehicle accident from later bringing a lawsuit against the plaintiff for personal injuries arising from the same accident? Read on to find out.

Claims Pointer: In this case arising out of a car accident, the Washington Court of Appeals held that when a defendant has a claim against the plaintiff which arises out of the same “transaction or occurrence” as the plaintiff’s claim and is logically related to the plaintiff’s claim, the defendant’s claim is a compulsory counterclaim and must be asserted in the original lawsuit. This case serves as a reminder of the importance of asserting any potential counterclaim in the original lawsuit at the risk of forfeiting the counterclaim in future litigation.

Chukri v. Stalfort, No. 75590-1-I, Washington Court of Appeals Div. I (October 16, 2017)

Adam Chukri (“Chukri”) and Jason Stalfort (“Stalfort”) were involved in a motor vehicle collision. Both parties claimed that the other party was at fault, and each claimed injuries arising from the lawsuit. Stalfort filed suit against Chukri, alleging personal injuries. Chukri’s insurance company provided him with legal representation for defense against Stalfort’s suit. Defense counsel sent Chukri a letter informing him of his rights as an insured. The letter also stated, “[i]f you intend to pursue a claim (or make a counterclaim or crossclaim), please contact your attorney immediately since strict time limitations may apply to such actions for damages.” Chukri did not contact a separate lawyer or assert any counterclaims against Stalfort. Following negotiations, the parties reached a settlement agreement, and the trial court dismissed the lawsuit with prejudice.

Roughly eight months after the settlement, Chukri retained a lawyer to file suit against Stalfort for injuries stemming from the previous motor vehicle collision. Stalfort responded by filing a motion to dismiss pursuant to Washington Superior Court Civil Rule (“CR”) 12(b)(6), arguing that Chukri’s claim was a compulsory counterclaim and should have been presented in the prior action. The trial court dismissed Chukri’s lawsuit. Chukri appealed.

The Washington Court of Appeals affirmed the trial court’s dismissal. The court first explained that a compulsory counterclaim is one that arises out of the same “transaction or occurrence,” and is logically related to the original claim. According to the court, a broad, realistic interpretation should be given to the “transaction or occurrence” in determining whether the original claim and potential counterclaim are logically related.

The court explained that the motor vehicle accident was at the center of the original lawsuit filed by Stalfort and the subsequent lawsuit filed by Chukri. Accordingly, the motor vehicle accident was the same “transaction or occurrence.” The court explained that Chukri’s personal injury suit and Stalfort’s original personal injury suit were logically related. As a result, the court held that Chukri’s claim was a compulsory counterclaim.

The court explained that CR 13 “requires compulsory counterclaims to be pleaded at the time the defendant’s answer is served.” Failure to plead a compulsory counterclaim will bar action on that claim in a later lawsuit. The court explained that the purpose behind the rule was to avoid multiplicity of suits and promote judicial economy, fairness, and convenience. The court noted that exceptions to the rule exist, notably when the pleader failed to assert a counterclaim due to “oversight, inadvertence, or excusable neglect.” The court explained that none of the exceptions applied to Chukri’s

case in point...

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claim. Chukri argued that his inability to control the litigation in the first lawsuit should enable him to bring his claim in a later action. This argument was not persuasive as the court explained that nothing in the Washington statute would prevent Chukri from asserting a counterclaim by retaining his own attorney.

Accordingly, because Chukri's counterclaim was compulsory and no exception applied, the Washington Court of Appeals affirmed the trial court's dismissal of the action.

View full opinion at: <https://www.courts.wa.gov/opinions/pdf/755901.pdf>

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