

# Summons as Process Not Pleading

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*[2025-11-12 Wed 18:56]*

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### Is a Summons Considered a Pleading in Washington Law?

#### Summary

No, a summons is not considered a pleading under Washington law. Washington Superior Court Civil Rule 7(a) provides an exhaustive definition of pleadings that does not include summons, and Washington case law explicitly confirms that a summons is classified as "process" rather than a pleading. The Washington Court of Appeals directly stated in 2019 that "A summons is not a pleading" and explained that summons falls under Civil Rule 4 governing "Process" while pleadings are governed by Civil Rule 7 Chengdu Gaishi Electronics, Ltd. v. G.A.E.M.S., Inc., 11 Wash.App.2d 617 (2019).

#### Definition of Pleadings Under Washington Civil Rule 7(a)

Washington Superior Court Civil Rule 7(a) establishes a restrictive and exhaustive definition of what constitutes a pleading. The rule provides an enumerated list of allowable pleadings including complaints, answers, replies to counterclaims, answers to cross-claims, third-party complaints, third-party answers, and court-ordered replies. The rule further establishes that no other pleadings shall be allowed beyond those specifically identified, creating a closed-category approach that means only the specifically enumerated documents qualify as pleadings under Washington civil procedure.

This exhaustive list approach establishes that documents not specifically identified cannot be classified as pleadings under Washington civil procedure rules.

## Classification of Summons as Process

Washington courts have consistently distinguished summons from pleadings by classifying summons as "process" under Civil Rule 4. In Chengdu Gaishi Electronics, Ltd. v. G.A.E.M.S., Inc., the Washington Court of Appeals explained that "Process" is defined as a "summons or writ, esp[ecially] to appear or respond in court" and noted that "CR 4, entitled "Process," discusses the requirements for a summons. By contrast, "pleadings" are defined in rule 7" Chengdu Gaishi Electronics, Ltd. v. G.A.E.M.S., Inc., 11 Wash.App.2d 617 (2019). The court then explicitly stated: "A summons is not a pleading" Chengdu Gaishi Electronics, Ltd. v. G.A.E.M.S., Inc., 11 Wash.App.2d 617 (2019).

This distinction reflects the different functional roles these documents serve in civil litigation, with pleadings containing substantive allegations and defenses while summons serves notice functions.

## Historical and Consistent Judicial Treatment

The classification of summons as process rather than pleading has deep roots in Washington jurisprudence. As early as 1943, the Washington Supreme Court in Roth v. Nash adopted reasoning from the Minnesota Supreme Court characterizing summons as "not a process, but merely a notice given by the plaintiff's attorney to the defendant that proceedings have been instituted, and that judgment therein will be taken against him if he fails to answer" Roth v. Nash, 19 Wash.2d 731 (1943). This precedent established the fundamental understanding that summons functions as a notice mechanism distinct from the substantive pleadings that contain the actual claims and defenses.

More recent decisions continue to reinforce this distinction. The Washington Court of Appeals in Beckman ex rel. Beckman v. State, Department of Social & Health Services emphasized that Civil Rule 7(a) "defines 'pleadings,' and that definition does not include judgments" and noted that "the civil rules treat judgments differently than pleadings" Beckman ex rel. Beckman v. State, Dept. of Social and Health Services, 102 Wash.App. 687 (2000). While this case specifically addressed judgments rather than summons, it demonstrates the courts' consistent approach of strictly applying the Civil Rule 7(a) definition to exclude documents not specifically enumerated.

## Procedural Implications of the Distinction

The classification of summons as process rather than pleading has significant procedural consequences under Washington civil procedure. Different amendment rules apply to each category: pleadings are amended under Civil Rule 15, while summons and other process are amended under Civil Rule 4(h) Mandawala v. Era Living at ATP, Not Reported in Pac. Rptr. (2020). The 2020 decision in Mandawala v. Era Living at ATP specifically addressed this distinction, holding that "CR 15 applies to the amendment of a pleading, not a summons. It is CR 4(h) that applies to the amendment of a summons" Mandawala v. Era Living at ATP, Not Reported in Pac. Rptr. (2020).

Additionally, the distinction affects how challenges to these documents are raised. Defects in summons are addressed through motions under Civil Rule 12(b)(4) for insufficient process or 12(b)(5) for insufficient service of process, while challenges to the substantive adequacy of pleadings are typically brought under Civil Rule 12(b)(6) for failure to state a claim upon which relief can be granted Chengdu Gaishi Electronics, Ltd. v. G.A.E.M.S., Inc., 11 Wash.App.2d 617 (2019).

## Recent Developments

Recent Washington cases continue to affirm the established distinction between summons and pleadings without any indication of change in this fundamental classification. The 2024 decision in Pecelj v. Sparks discussed Civil Rule 4 governing "Process" and the requirement that "the summons and complaint shall be served together" in the context of analyzing service of process requirements Pecelj v. Sparks, 32 Wash.App.2d 404 (2024). The 2020 Mandawala decision further clarified the separate treatment of summons and pleadings in the amendment context, confirming that different civil rules govern amendments to each type of document Mandawala v. Era Living at ATP, Not Reported in Pac. Rptr. (2020).

## Related Issues

**Service of Process Requirements** Proper methods and sufficiency of service under Civil Rule 4, including personal service, substitute service, and service by publication

**Amendment of Process vs. Pleadings** Different amendment standards under Civil Rule 4(h) for process versus Civil Rule 15 for pleadings

**Waiver of Service Defects** When defects in summons or service are waived through appearance or failure to timely object under Civil Rule 12(b)(4) and (5)

**Jurisdiction and Process** How defective summons affects personal jurisdiction over defendants

### **Commentary on This Question**

A summons is a formal notice issued by the court that informs a defendant of the commencement of a lawsuit and compels a response. Under the Federal Rules of Civil Procedure (FRCP), a summons is distinct from a pleading and must contain specific elements including the court and parties' names, the defendant's identification, the plaintiff's attorney information, the timeframe for the defendant's response, and a warning regarding consequences of failing to respond. A summons is issued by the clerk after the complaint is filed and must be served along with a copy of the complaint on the defendant. It is not itself a pleading but a procedural device for providing notice of the suit and initiating the defendant's obligation to respond.

**OCNR-FEDRCIVTR APP I** Appendix I Federal Rules of Civil Procedure

Washington practice treats adversary proceedings in bankruptcy similarly to ordinary civil cases, where a complaint commences the proceeding accompanied by a summons. The summons and complaint are served on necessary parties, with service regulations spelled out by the relevant bankruptcy rules. These procedural steps position the summons as a notice device rather than a pleading, since responsive pleadings address the claims in the complaint rather than the summons itself.

**28 WAPRAC § 9.21** §9.21 Adversary Proceedings or Contested Matters

Pleadings generally consist of complaints, answers, and other responsive documents, not the summons.