# WEST VIRGINIA CODE: §50-4-12

**§50-4-12. Dismissal of actions for failure to appear, testify, etc.**

A magistrate may render judgment against the plaintiff dismissing his action with prejudice to a new action and awarding costs to the defendant when (a) the plaintiff fails to appear and prosecute his action at the proper time for appearance; (b) the plaintiff fails or refuses to testify when properly required to do so; or (c) the plaintiff fails to give security for costs when properly required to do so. In cases (a) and (b) if the plaintiff shows cause why his action should not have been dismissed, the magistrate may set aside such judgment and continue the matter before him or may dismiss the action without prejudice.

A magistrate shall dismiss a claim without prejudice if the summons is defective or erroneous and cannot properly be amended.

A magistrate shall dismiss a claim without prejudice if the plaintiff requests such dismissal before trial.

The dismissal of a claim shall not affect the right of any party to proceed to trial upon a counterclaim.

WV Legislature