WEST VIRGINIA CODE CHAPTER 55 ARTICLE 3

WV Legislature

§55-3-1. Issuance of summons.

If any forcible or unlawful entry be made upon any land, building, structure, or any part thereof, or if, when the entry is lawful or peaceable, the tenant shall detain the possession of any land, building, structure, or any part thereof after his right has expired, without the consent of him who is entitled to the possession, the party so turned out of possession, no matter what right or title he had thereto, or the party against whom such possession is unlawfully detained, may, within three years after such forcible or unlawful entry, or such unlawful detainer, sue out of the clerk's office of the circuit court, or of any court of record empowered to try common-law actions, of the county in which the land, building, structure, or some part thereof may be, a summons against the defendant to answer the complaint of the plaintiff that the defendant is in the possession of, and unlawfully withholds from the plaintiff, the premises in question (describing the same with convenient certainty), to the damage of the plaintiff in such sum as the plaintiff shall state; and no other declaration shall be required.

WV Legislature

§55-3-2. Assessment of damages.

If the plaintiff file with the summons a statement of the profits and other damages which he means to demand, and the jury find in his favor, they shall at the same time assess the damages for mesne profits of the premises in suit for any period not exceeding three years previous to the commencement of the action until verdict, including any special damages properly chargeable to the defendant that the plaintiff shall have suffered from detention of the premises, and also the damages for any destruction or waste of the buildings or other property during the same time for which the defendant is chargeable.

WV Legislature

§55-3-3. Return day and service of summons; plea; issue and trial.

The summons may be returnable to, and the case heard and determined at, any term of such court. Such summons shall be made returnable not more than ninety days after its date and shall be served at least ten days before the return day thereof. If the defendant appear, he shall plead to the summons, and his plea shall be "not guilty." Upon this issue, or upon the return of the first or any subsequent summons "executed," if the defendant fail to plead, a jury shall be impaneled to try whether he unlawfully withholds the premises in controversy and to assess the damages, if any, which the plaintiff is entitled to recover for the detention thereof. Such cause shall have precedence for trial over all other civil causes on the docket.

WV Legislature

§55-3-4. Period of limitation; verdict and judgment.

If it appear that the plaintiff was forcibly or unlawfully turned out of the possession, or that it was unlawfully detained from him unless it also appear that the defendant has wrongfully held or detained the possession for three years before the date of the summons the verdict shall be for the plaintiff for such premises, or such part thereof as may be found to have been so held or detained, and for such damages as the plaintiff shall be entitled to recover for the detention for such premises or such part thereof. When part only of the premises is found for the plaintiff, the verdict shall describe the part so found. In such cases, judgment shall be for the plaintiff. If the verdict be for the defendant as to the whole, judgment shall be for him

WV Legislature

§55-3-5. Judgment not a bar to action of ejectment; verdict not conclusive of facts in future action; allowance for improvements not precluded.

No such judgment shall bar any action of ejectment between the same parties nor shall any such verdict be conclusive, in any such future action, of the facts therein found; nor shall anything herein prevent a defendant from claiming and having allowed, in a proper case, allowance for improvements as provided in article five of this chapter.

WV Legislature

§55-3-6. Equitable defenses; adverse possession.

All the provisions of sections eleven, twelve, thirteen and sixteen of article four of this chapter shall prevail, and control the respective rights of the parties, in any action brought under this article.

WV Legislature