

# MINNESOTA STATUTES 1953 ANNOTATIONS

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CIVIL CASES 531.01

Where an automobile is sold at execution sale the registrar of motor vehicles may require as proof of ownership a copy of the writ of execution and the writ thereto certified by the clerk or by the justice of the peace who issued the writ; and when such certified copy discloses that the officer to whom the writ was directed made the writ, and the writ recites a sale to an applicant for registration, the title may be transferred. OAG Nov. 8, 1948 (632-E-27).

## 530.05 ACTIONS WITHIN JURISDICTION

A justice court being one of limited jurisdiction is confined strictly to the powers conferred by statute and those powers must be exercised as prescribed by statute. Hoppe v Klapperich, 224 M 224, 28 NW(2d) 780.

## 530.06 ACTIONS NOT WITHIN JURISDICTION

An action for breach of promise to marry is in form on contract, but in respect to damages, it is governed by the law applicable to tort actions; and the jury in assessing damages could consider defendant's financial worth, social position, the pecuniary and social advantages plaintiff would have enjoyed if defendant performed his contract, and the mental pain and anguish suffered by the plaintiff. Kugling v Williamson, 231 M 135, 42 NW(2d) 534.

## 530.08 DOCKET, CONTENTS

The only record the law requires a justice of the peace to keep is his docket. OAG April 10, 1953 (851-F).

## CHAPTER 531

### CIVIL CASES

#### COMMENCEMENT OF ACTIONS

NOTE: Minnesota Rules of Civil Procedure for the district courts, promulgated June 25, 1951, effective January 1, 1952, are published in Minnesota Reports, Volume 232; Minnesota Rules Practice, published by West Publishing Company, and in Minnesota Rules of Civil Procedure, published by the State Printer. Rules of Civil Procedure for the municipal court, promulgated July 16, 1953, effective January 1, 1954, are published in Minnesota Reports, Volume 237.

## 531.01 ACTIONS, HOW COMMENCED

"Peace of mind" in 48 pieces v uniform right of privacy. 32 MLR 734.

An oral agreement to cultivate land on shares which provided for exclusive possession of the premises in the tenant and that part of the rent was to be paid in cash and part in crops; where the owner considered that the contract could be terminated at the end of any contract year; and under which the tenant made certain fence repairs creating landlord-tenant relationship, an action for conversion of flax straw did not lie where plaintiffs did not have title thereto at the time of the alleged conversions. Larson v Archer-Daniels, 226 M 315, 32 NW(2d) 649.

Conversion is an act of wilful interference with the chattel, done without lawful justification, by which any person entitled thereto is deprived of use and possession. In bringing an action for conversion property the plaintiff must enjoin an ownership either general or special in the property converted by the defendant. Knowledge or motive of the converter is immaterial except as affecting the amount of damages. Larson v Archer-Daniels, 226 M 315, 32 NW(2d) 649.

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 531.04 CIVIL CASES

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It is the duty of the employer to use ordinary care to ascertain the whereabouts of a missing employee who is employed on a moving train, so that care may be given to such employee in the event that he is injured. *Anderson, v Atchison, T & S F Ry. Co.*, 68 S. Ct. 854.

In an action under the Federal Employees Liability Act an interstate rail carrier has the duty of exercising ordinary care to avoid injury to employees on tracks by operation of the trains. *Chicago & Northwestern v Garwood*, 167 F(2d) 848.

### 531.04 SUMMONS, SERVICE

In serving process in civil actions, a constable has only such authority as is specifically conferred upon him by statute. OAG May 7, 1945 (847).

### 531.05 SERVICE BY PUBLICATION

An action for the reasonable and agreed value of personal services is an action in personam, and the district court did not acquire jurisdiction over a nonresident defendant by publication of the summons where there was no personal service in the state, even though plaintiff by her action sought a judgment of the trial court declaring the claim to be a lien on certain real estate, which was not attached, but which was described in the summons and complaint. *Curran v Nash*, 224 M 571, 29 NW(2d) 436.

### 531.11 TRANSFER OF ACTION

A town justice of the peace has jurisdiction within the county to hear cases involving violation of village ordinances where the village does not have a municipal court. An action may be transferred for bias or prejudice or other grounds as prescribed in section 531.11. OAG July 16, 1953 (266-B-24).

### 531.13 FAILURE OF PARTIES TO APPEAR

HISTORY. RS 1851 c 69 art 4 s 57; 1852 amend p 7 s 13; PS 1858 c 59 s 63; GS 1866 c 65 s 20; 1872 c 68 s 1; GS 1878 c 65 s 22; GS 1894 s 4976; RL 1905 s 3903; GS 1913 s 7521; 1917 c 309 s 1.

## PLEADINGS, TRIAL

### 531.29 ADJOURNMENT SUBSEQUENT TO FIRST

HISTORY. RS 1851 c 69 art 3 s 39; 1852 amend p 7 s 12; PS 1858 c 59 s 39; GS 1866 c 65 s 36; GS 1878 c 65 s 38; GS 1894 s 4992; RL 1905 s 3919; GS 1913 s 7537.

## TRIAL BY JURY

### 531.33 DEMAND FOR JURY

HISTORY. 1857 c 10 s 2; PS 1858 c 59 s 68; GS 1866 c 65 s 54; GS 1878 c 65 s 56; GS 1894 s 5010; 1899 c 299; RL 1905 s 3923; GS 1913 s 7541.

## JUDGMENTS

### 531.45 TIME OF ENTRY

HISTORY. RS 1851 c 69 art 4 s 66; PS 1858 c 59 s 80; GS 1866 c 65 s 66; GS 1878 c 65 s 68; GS 1894 s 5022; RL 1905 s 3935; GS 1913 s 7553.