

MANITOWOC COUNTY CLERK OF CIRCUIT COURT SMALL CLAIMS PROCEDURAL INFORMATION

There is a \$10,000 statutory limit for small claims. If a party is seeking more than that amount, the action should be commenced through large claims civil proceedings. The exception to this is eviction cases, which, regardless of the amount claimed, are filed in small claims court. You may process your small claims action without an attorney. However, if you choose not to have an attorney represent you, you will be responsible for all aspects of your case, including filing, service on the parties, preparing any necessary documents, any required court appearances, and taking any post-judgment action to enforce collection of the judgment. The Clerk of Circuit Court staff is not allowed to answer legal questions nor assist in “how to” prepare documents. You must either rely on your own judgment and interpretation of the statutes or contact an attorney for assistance. Small claims forms packets are available upon request from the Clerk of Court office or the Clerk of Court website or small claims circuit court forms can be accessed through the state court website at www.wicourts.gov.

FILING FEE. Check with the Clerk of Circuit Court staff or web site for current filing fees. **Filing fees are non-refundable.**

SERVICE. For money judgments, if the defendant resides within Manitowoc County, they can be mail served by the Clerk of Court for a \$2.00 mail service fee per defendant. If the defendant resides outside of Manitowoc County, they will need to be personally served. Eviction actions and some replevin actions require personal service upon the defendant. In an eviction, if the defendant cannot be personally served, the Sheriff or Process Server can post the Summons and Complaint on the premises, but in order for judgment to be entered for any money damages in an eviction, personal service is required (or mail service, if allowed by county rule). Information on process servers within Manitowoc County is available upon request from the Clerk of Court office. If personal service is required, **it is your responsibility to file the Proof of Service** before the initial court date. The case will be dismissed if the proof of service is not filed. *See Form SC-6050V – Basic Steps to Small Claims Service.*

AUTHENTICATED COPIES OF SUMMONS AND COMPLAINT REQUIRED FOR SERVICE. Authentication of copies is the file stamping process and assigning of case number done by the Clerk of Court office. Any attachments made to the original Summons and Complaint must also be copied and attached to each authenticated copy of the Summons and Complaint, so the party is receiving an exact copy of what was filed with the court.

AFFIDAVIT OF NON-MILITARY SERVICE (GF-175) must be on file for each individual defendant before a default judgment can be entered, to confirm that the defendant is not currently on active duty in the military service. This form and instructions are available upon request through the Clerk of Court office or can be accessed through the state court website at www.wicourts.gov. **A separate affidavit should be filed for each defendant.** This affidavit should be filed with the Clerk of Court prior to the initial court date.

EVICTON ACTIONS are always filed as a small claims action, regardless of total damages being sought. Before filing an eviction action, you must serve proper notice terminating tenancy according to Chapter 704 of the Wisconsin Statutes. As a courtesy, the Manitowoc County Clerk of Court has various tenant termination notices available for purchase upon request at the Clerk of Court Office. Proof of this termination notice being served on the tenant(s) will be required before an eviction is granted. Personal service is required for eviction actions. *See Form 6010V – Basic Steps for Handling a Small Claims Case for Eviction.*

EVICTON ACTIONS REQUESTING MONEY JUDGMENT. In an eviction action that also requests a money judgment, *if the complete extent of money damages is known*, a specific dollar amount could be entered. If there is no appearance made by the defendant, a default judgment could be granted in this amount. If defendant appears and contests plaintiff’s claim, a commissioner hearing could be scheduled. *If the exact extent of damages is not yet known at the time of filing*, plaintiff could indicate “hold open” in the blank where the dollar amount for the money judgment would be indicated. In the case where the damages claim is being held open, a **commissioner hearing** will be scheduled, where the plaintiff is afforded an opportunity to compile and present a complete claim for actual damages being sought against the defendant. Plaintiffs are encouraged to file their damages list with the court prior to the damages hearing, and copy the defendant with said list, but can present said list at the actual damages hearing. Both parties will receive notice of the damages hearing, so there is an opportunity for both sides to address the extent of damages being sought, and to dispute the same, before judgment is entered. Non-appearance of plaintiff may result in dismissal of the money judgment; non-appearance of defendant may result in a default judgment being entered. The judgment granted for an eviction is separate and distinct from the judgment entered for a money judgment. All costs will be included on the money judgment, to eliminate the need for two docketing fees (and satisfaction fees) to be required.

MONEY JUDGMENT ACTIONS. *See Form 6020V – Basic Steps for Handling a Small Claims Case for Recovery of Money (\$10,000 or less).*

REPLEVIN ACTIONS (recovery of property). *See Form 6030V – Basic Steps for Handling a Small Claims Case for Replevin (Recovery of Property).*

STIPULATED JUDGMENTS OF DISMISSAL:

Allows parties to enter into a stipulated agreement as to vacating the premises (eviction) or to enter into an installment agreement for payment of amounts due (eviction or non-eviction). The following forms can be used to accomplish this. These forms can be accessed by links on the Manitowoc County Clerk of Court website or directly from the state court website at wicourts.gov. The Stipulation and Order would need to be presented to the Court on or before the initial appearance date. Upon the Court signing the Order, the clerk would enter a stipulated dismissal. If, after entry of the stipulated dismissal, the defendant defaults on the agreement for payment, the plaintiff may file an Affidavit of Noncompliance and Order for Judgment requesting the stipulated judgment to be vacated and for judgment to be entered against the defendant for the balance due.

FOR EVICTION ACTIONS:

<p>STIPULATION FOR DISMISSAL EVICTION (SMALL CLAIMS) (SC-5300VA) For parties to put into writing an agreement to dismiss a small claims eviction action and to record the terms of their agreement.</p> <p>ORDER FOR DISMISSAL EVICTION (SMALL CLAIMS) (SC-5300VB) Court order to an agreement to dismiss a small claims eviction case and to record the terms of their agreement.</p> <p>AFFIDAVIT BASED ON NONCOMPLIANCE EVICTION (SMALL CLAIMS) (SC-5400VA) To provide a document by which a plaintiff may request the court to vacate a dismissal and enter a judgment of eviction based on non-compliance of a defendant, and issue a writ of restitution.</p> <p>ORDER FOR JUDGMENT BASED ON NONCOMPLIANCE EVICTION (SMALL CLAIMS) (SC-5400VB) Court order to vacate a dismissal, enter a judgment of eviction based upon noncompliance of a defendant, and issue a writ of restitution.</p>
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FOR NON-EVICTION ACTIONS:

STIPULATION FOR DISMISSAL NON-EVICTION (SC-5310VA)

For parties to put into writing an agreement to dismiss a small claims non-eviction action and to record the terms of their agreement.

ORDER FOR DISMISSAL NON-EVICTION (SC-5310VB)

Court order to an agreement to dismiss a small claims non-eviction case and to record the terms of their agreement.

AFFIDAVIT BASED ON NONCOMPLIANCE NON-EVICTION (SMALL CLAIMS) (SC-5410VA)

To provide a document by which a plaintiff may request the court to schedule a hearing to vacate the dismissal of an action based upon noncompliance of a defendant(s).

ORDER FOR HEARING NON-EVICTION (SMALL CLAIMS) (SC-5410VB)

Court order to vacate the dismissal of an action based upon noncompliance of a defendant(s).

AFFIDAVIT BASED ON NONCOMPLIANCE FOR MONEY JUDGMENT NON-EVICTION (SMALL CLAIMS) (SC-5420VA)

To provide a document by which a plaintiff may request the court to enter a money judgment based upon noncompliance of a defendant(s).

ORDER FOR MONEY JUDGMENT NON-EVICTION (SMALL CLAIMS) (SC-5420VB)

Court order to enter a money judgment based upon noncompliance of a defendant(s).

COURT RETURN DATE (initial appearance date): Initial appearances on small claims actions are heard on Tuesdays at 1:30 p.m., and small claims evictions are heard at 2:00 p.m., in Room B-15, in the lower level of the Manitowoc County Courthouse (except when there is a holiday during that week). Check with the Clerk of Court for available initial appearance dates, or the small claims intake calendar is posted on the Manitowoc County Clerk of Circuit Court website. On cases involving unrepresented plaintiffs and defendants, **both sides are required to appear in person at the initial appearance.** When your case is called by the clerk, both parties proceed to the front of the court and will be seated at the counsel tables.

ANSWER AND COUNTERCLAIM. If a defendant disputes the claim(s) being made by plaintiff, an Answer and Counterclaim (SC-5200V) will be required to be filed by defendant. This form will be provided to defendant by clerk at the return date, and defendant is given ten (10) days from return date to file Answer. The original Answer gets filed with the Clerk of Court, with a copy mailed or furnished to each opposing party or counsel. *See Form 6040V – Basic Steps for Filing an Answer to a Small Claims Complaint.*

DEFAULT JUDGMENT. If there is no appearance by the defendant at the initial appearance date, a **default judgment** may be granted (as long as proper service has been accomplished and Affidavit of Non-Military Service is on file). Both parties will be mailed notice upon entry of a default judgment.

COMMISSIONER HEARING. If defendant appears at the small claims initial appearance date and contests the plaintiff's claim, a **commissioner hearing** will be scheduled where both parties will be required to appear and are given an opportunity to present their respective sides of the case and provide any supporting documentation to substantiate their claims. If a defendant contests the claim at the return date, the matter will be set for a 30-minute commissioner hearing. The defendant will be required to file a written **Answer and Counterclaim** (SC-5200V) within ten (10) business days of the return date. The original must be filed with the court, and a copy must be provided to the plaintiff or plaintiff's attorney. If no Answer gets filed, the commissioner hearing will be canceled and judgment will be entered in favor of the plaintiff.

Special provision for eviction cases:

If a damages hearing is scheduled before the tenant has moved and the landlord has determined the amount claimed, the tenant is not required to file an Answer before the commissioner hearing. All parties are required to attend the commissioner hearing on the money damages; the landlord must prove all damages and the tenant may dispute any items claimed. An **Itemization of Damages** form is available on the Clerk of Court website to itemize the claim being made by plaintiff for unpaid rent and damages in conjunction with an eviction action. However, if the tenant has a counterclaim, an **Answer and Counterclaim (SC-5200V)** must be in writing and filed with the court at least ten (10) days before the commissioner hearing, and a copy must be mailed or provided to the plaintiff or plaintiff's attorney.

Commissioner hearings are held in the B-15 courtroom and are informal. **Both parties must be present.** Documentary evidence may be presented, but no exhibits are marked. The parties may bring witnesses, although testimony will be strictly limited in order for each side to present its case in 15 minutes or less. Settlement is encouraged. If a compromise cannot be reached, the commissioner will decide based on the summarized facts presented. If necessary, the commissioner may issue a written decision.

Parties will receive a **Demand for Trial and Instructions (SC-517)** at the end of the commissioner hearing. If you don't agree with the court commissioner's decision, you may request a trial before a circuit court judge. If the court commissioner's decision was made orally during the hearing, either party has ten (10) days to request a trial. If the court commissioner's decision was made in writing after the hearing, either party has fifteen (15) days from the date the decision was mailed to request a trial. The **Demand for Trial** must be filed in the same county where the court commissioner heard the case. The party demanding trial must mail a copy of the **Demand for Trial** to the other party within the statutory time limits, providing proof that the form was mailed to the other party. If neither party demands a trial, judgment will be entered based upon the commissioner's decision.

JUDGMENT ON EVICTION/WRIT OF RESTITUTION. Upon the Court granting a judgment for eviction, the Court shall order that a Writ of Restitution be issued, to restore possession of the premises to the plaintiff. The Writ of Restitution (SC-512A) is prepared by the Clerk of Court, and then needs to be delivered to the Sheriff's Department for execution. Arrangements need to be made with the Sheriff's Department for advance payment of the service fee. A request for a Writ of Restitution is available at the Clerk of Court's office, or on the Clerk of Court website. There is a \$5.00 fee payable to the Clerk of Court for a Writ of Restitution. See §799.44, Wis. Stats.

MONEY DAMAGES JUDGMENT/DISCLOSURE OF ASSETS. Upon entry of a judgment for money damages, the judgment debtor is ordered under penalty of contempt to mail or deliver a completed Financial Disclosure Statement to judgment creditor or Clerk of Court within fifteen (15) days of entry of judgment, unless the judgment is satisfied sooner. Failure of judgment debtor to comply with this order may result in a **Motion and Request for Hearing on Contempt (SC-507A)** and **Order for Hearing on Contempt (SC-507B)** being filed by judgment creditor to enforce the order for financial disclosure. See §799.26, Wis. Stats. The court does not collect your judgment for you, but there are actions you can take to collect your judgment. See *Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment (SC-6070V)*, *Post-Judgment: Basic Steps for Handling a Non-Earnings Garnishment (SC-6071V)*, and *Post-Judgment: Basic Steps in Collecting on a Judgment for Money (SC-6090V)*.

STATUTORY INTEREST ON JUDGMENT. Interest shall accrue on judgments at the applicable statutory rate from the date of entry of judgment until it is paid in full, and is a recoverable cost for judgment creditor. For judgments entered up until December 1, 2011, the statutory interest rate is 12% per annum. 2011 Act 69 amended the statutory interest rate from 12% per annum to a rate of 1% plus the prime interest rate in effect on January 1st and July 1st of each year. To find the statutory interest rate for a specific judgment entry date, see the chart posted at www.wicourts.gov, under “Services,” then “Public,” then “Self-Help,” then “Small Claims,” then scroll down under “Procedures” to “Interest Rates on Civil Judgments.”

MOTION TO REOPEN. If you feel that a judgment has been unfairly entered against you because actual notice by mail of the summons and complaint did not occur, you may petition the court with a **Petition to Answer or to Reopen Small Claims Action with Mail Service** (SC-511A) and **Order on Petition to Answer or to Reopen Small Claims with Mail Service** (SC-511B), setting forth the circumstances at issue. See §799.14(1), Wis. Stats.

If you feel that a judgment has been unfairly entered against you because you failed to appear at the small claims court proceeding even though you had notice of the hearing, but feel that your failure to appear was for good cause, you may petition the court with a **Motion to Reopen Small Claims Judgment** (SC-515A) and **Order on Motion to Reopen Small Claims Judgment** (SC-515B), setting forth the circumstances at issue. See §799.29, Wis. Stats.

If the Court believes your motion sets forth a valid reason, and your request is statutorily timely, the Court may grant your motion, vacate the judgment, and schedule the matter for a commissioner hearing.

DEMAND FOR TRIAL. If you disagree with a decision made by a circuit court commissioner, you may request a trial before a circuit court judge by filing a **Demand for Trial** (SC-517). If the court commissioner’s decision was made orally during the hearing, either party has ten (10) days to request a trial. If the court commissioner’s decision was made in writing after the hearing, either party has fifteen (15) days from the date the decision was mailed to request a trial. The **Demand for Trial** must be filed in the same county where the court commissioner heard the case. The party demanding trial must mail a copy of the **Demand for Trial** to the other party within the statutory time limits, providing proof that the form was mailed to the other party. See §799.207(3), Wis. Stats. There is **no filing fee** for filing a Demand for Trial.

NEW TRIAL. A motion for a new trial in the trial court is governed by §805.15, Wis. Stats., and must be made and heard within twenty (20) days after the verdict is rendered, unless the Court extends the time as provided by statute. If the motion is not decided within ten (10) days of the date of the hearing, it shall be deemed denied. The entry of judgment by the court without deciding a pending motion for a new trial shall be deemed a denial of the motion.

A motion to set aside a verdict or to open up a judgment and for a new trial founded upon newly discovered evidence may be heard upon affidavits and the proceedings in the action. Such a motion may be made at any time within one year from the verdict or finding. The order granting or denying the motion shall be in writing and shall specify the grounds for granting the new trial or state the court’s reasons for denying it. See §799.28, Wis. Stats. for more information.

APPEAL OF JUDGE’S FINAL DECISION. If you are dissatisfied with the judge’s final decision in the small claims case, you may appeal that decision to the Wisconsin Court of Appeals. You can utilize the self-help center on the Wisconsin Court System website (<http://wicourts.gov>) where you will find a publication entitled “A Citizen’s Guide to Filing an

Appeal in the Wisconsin Court of Appeals,” which will assist you with the process. Or, you may wish to contact an attorney to assist you. There are strict time limits involved with filing an appeal, so it is imperative that you do not delay in making that decision.

DEMAND FOR JURY TRIAL. Any party who wishes to preserve their right to a jury trial before a circuit court judge must pay an additional fee of \$89.00 (jury request filing fee - \$53.00 and 6-person jury fee - \$36.00). See §799.21, Wis. Stats. for more information. Pursuant to local court rule, all contested matters will first proceed to a hearing before a Court Commissioner prior to a jury trial. **This jury demand fee is non-refundable.**

DOCKETING A JUDGMENT. Upon granting of judgment, plaintiff may docket their judgment by paying a \$5.00 docket fee at the Clerk of Court office. A docketed judgment becomes a lien against any real property of the judgment debtor for 10 years, in the county where judgment is rendered. You may docket the judgment in other counties where the judgment debtor owns real estate, so it becomes a lien on that real estate as well, by filing a Transcript of Judgment from the original judgment and docket lien with the other county. See *Form SC-6060V – Basic Steps for Docketing a Judgment for Collection.*

REDOCKETING A JUDGMENT. An action on a judgment of a court of record must be commenced within 20 years after the judgment is entered, or be barred. Prior to expiration of the initial 10 year period, the judgment creditor can extend or redocket the lien for a second 10-year period by bringing a motion before the court, giving appropriate notice to the adverse party, and paying the docket fee. A judgment can be redocketed for a second 10-year period, but the redocketed judgment period cannot exceed the 20-year period from the initial entry of judgment. See §§806.10, 860.15, and 893.40, Wis. Stats. Once a party has been awarded a judgment, it is that party’s responsibility to enforce collection of the judgment, not the Court’s. There are various legal remedies available to enforce payment, such as garnishment or execution on the judgment. See *Form SC-6070V – Basic Steps for Handling a Small Claims Earnings Garnishment; or Form SC-6080V – Basic Steps for Handling an Execution Against Property; or Form SC-6090V – Basic Steps for Collecting on a Judgment for Money; or Form SC-6100V – Basic Steps for Collecting on a Judgment for Replevin.*

SATISFACTION OF JUDGMENT. When a judgment has been paid in full, the judgment creditor shall sign a **Satisfaction of Judgment** (GF-129) and provide the same to the judgment debtor for filing with the Court. The judgment debtor must pay a \$5.00 satisfaction fee to file the Satisfaction of Judgment with the Clerk of Court. Wis. Stats. §806.20 provides a remedy for the Court to direct satisfaction of judgments that have been paid but have not been satisfied due to loss of the Satisfaction or refusal of judgment creditor to satisfy.

AVOID THESE COMMON FILING ERRORS:

- Make sure to file your action in the county you list at the top of the pleading (because filing fees are non-refundable if you file in the wrong county by mistake).
- Only one case classification code can be selected (select the one that best describes the main purpose of your action).
- Make sure the Complaint is properly signed and notarized.
- Do not include costs in the money judgment you are seeking. Costs are statutorily awarded if the Court grants your judgment.

REFERENCE RESOURCES:

- *Chapter 799, Wisconsin Statutes*. provides statutory reference to procedure in Small Claims Actions. Can be accessed on Clerk of Court website, www.manitowocounty.com/clerkofcourt, under “General Information” then scroll down to “Wisconsin Statutes.”
- *Manitowoc County Local Court Rules* provide procedures and rules adopted by Manitowoc County Circuit Court Judges to provide guidance for parties and efficient administration. Can be accessed on Manitowoc County Clerk of Court website, www.manitowocounty.com/clerkofcourt, under “General Information” then scroll down to “Manitowoc County Local Court Rules.”
- *Basic Guide to Wisconsin Small Claims Actions (SC-6000)* available on-line at the state courts website at www.wicourts.gov (click on “Forms,” then “Circuit Court”, then “Small Claims). Other instructional information available at same location: *Basic Steps for Handling a Small Claims Case for Eviction (SC-6010)*; *Basic Steps for Handling a SC Case for Recovery of Money (SC-6020)*; *Basic Steps for Handling a SC Case for Replevin (Recovery of Property) (SC-6030)*; *Basic Steps for Filing an Answer to a Small Claims Complaint (SC-6040)*; *Basic Steps to Small Claims Service (SC-6050)*; *Basic Steps for Docketing a Judgment for Collection (SC-6060)*; *Basic Steps for Handling a Small Claims Earnings Garnishment (SC-6070)*; *Basic Steps for Handling an Execution Against Property (SC-6080)*; *Basic Steps in Collecting on a Judgment for Money (SC-6090)*; *Basic Steps in Collecting on a Judgment for Replevin (SC-6100)*.
- *Forms* are available at the Clerk of Court office, or on-line at the state courts website at www.wicourts.gov (click on “Forms,” then “Circuit Court,” then form category).
- *Small Claims Intake Calendar* can be accessed on Manitowoc County Clerk of Court website, www.manitowocounty.com/clerkofcourt, under “Court Resources,” then “Small Claims Unit.”
- *The Wisconsin Way*, a guide for landlords and tenants, is available for \$10.00 per copy, payable to “DATCP”, by contacting the Bureau of Consumer Protection, at the Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911. Phone: 1-800-422-7128; or can be viewed at link on Manitowoc County Clerk of Court website, under “Services,” then “Small Claims.”

CONTACT INFORMATION FOR SMALL CLAIMS INQUIRIES:

Clerk of Circuit Court	Small Claims Clerk
Manitowoc County Courthouse	Phone: (920) 683-4024
ATTN: Small Claims Unit	
1010 South Eighth Street, Room 105	
Manitowoc, WI 54221-2000	

DISCLAIMER: The foregoing information is provided as a courtesy of the Manitowoc County Clerk of Circuit Court to provide litigants with general procedural guidance, based on generally accepted practices in Manitowoc County. This information is structured to answer frequently asked questions in a neutral and unbiased manner, and to assist in streamlining the small claims procedure for efficiency. Revised 8-14-18