

Pre-Judgment: Basic Steps for Handling Small Claims for EVICTION ACTIONS

This guide is provided by the Wisconsin court system to give you general information about Wisconsin small claims eviction actions. Resources available in each county may be found at the link below:

<https://www.wicourts.gov/services/public/selfhelp/docs/countylegalresources.pdf>

For additional information, please see the Pre-Judgment and Post-Judgment Basic Steps Documents. These basic steps documents and any forms mentioned in this basic guide may be obtained from the clerk of court or online at:

<https://www.wicourts.gov/forms1/circuit.htm>.

In addition to the guidance in this handbook, follow local court rules or procedures:

[Wisconsin Circuit Court Rules](#)

NOTICE: Small Claims laws change often. The small claims forms are intended to be useful in many cases, but you may have to add or attach additional information as it applies to your case. Talk to a lawyer if you are unsure whether these forms are the most appropriate for your situation.

COURT STAFF CANNOT GIVE LEGAL ADVICE.

Before filing an eviction action, you must serve proper notice terminating tenancy according to Chapter 704 of the Wisconsin Statutes. Some counties require proof of this notice before an eviction will be granted. You must also determine if the eviction action is due to a foreclosure action per §799.41(2), Wis. Stats.

- 1. **Decide in which county you will file your case.** This will usually be the county where the subject property is located. You should review local court rules to make sure you are following the proper procedure.
- 2. **Fill out a *Small Claims Summons and Complaint* form.** Complete the general *Summons and Complaint*, ([SC-500](#)) form or *Summons and Complaint (with Instructions)*, ([SC-500I](#)) form which has step-by-step instructions on the left side.
- 3. **Determine if the eviction is to remove a tenant whose tenancy is terminated as a result of a foreclosure judgment and sale.** Use the check boxes on the *Summons and Complaint*, ([SC-500](#)) form to provide this information.
- 4. **Once you have filled out the form, you should make at least two (2) copies** for each tenant you are suing and a copy for yourself.
- 5. **File the *Summons and Complaint*.** The *Summons and Complaint* must be filed and the copies file stamped, and a filing fee paid to the clerk of court in the county where you are filing your case.

- 6. **Have each tenant you are suing served with a copy of the *Summons and Complaint*.** For the court to hear the case, each tenant must be provided with a copy of the *Summons and Complaint* far enough in advance of the first court date. A sheriff or private process server must attempt to personally serve all tenants. If personal service cannot be accomplished, the sheriff or process server should attempt to make substitute service. The plaintiff, sheriff or process server may post a copy of the *Summons and Complaint* on the property where it may be conveniently read and mail copies of the *Summons and Complaint* to the tenants per §799.16, Wis. Stats. See *Pre-Judgment: Basic Steps to Small Claims Service*, ([SC-6050V](#)) form for additional information.
- 7. **Complete a *Declaration of Nonmilitary Service*, ([GF-175](#)) form for each tenant you are suing.**
- 8. **File your proof(s) of service and *Declaration(s) of Nonmilitary Service* with the Clerk of Court.** File the *Declaration(s) of Nonmilitary Service* and the proof(s) of service you received from the sheriff or private process server. File these documents with the clerk of court at or before the first court date according to local court rules. If you (as opposed to the sheriff or process server) posted and provided copies to the defendant by mail, you must also complete and file an *Declaration of Service*, ([SC-5100V](#)) form.
- 9. **Attend the first court date.** All parties are required to attend the first court date. However, DEFENDANTS may be allowed to appear in writing or by telephone if a local court rule grants that privilege. Follow the local court rules where your case is filed or your case may be dismissed. <https://www.wisbar.org/Directories/CourtRules/Pages/Circuit-Court-Rules.aspx>. If the court grants you an eviction judgment, skip to number 12 below and file the necessary paperwork.
- 10. **If your case cannot be settled at the first court date, the court will schedule a trial.** Before the trial, you may contact the tenant to try to settle your case. Some counties require the parties attend mediation. If you reach an agreement, put your agreement in writing and file it with the clerk of court before the trial. You may use the *Stipulation for Dismissal (Eviction)*, ([SC-5300VA](#)) form and *Order for Dismissal (Eviction)*, ([SC-5300VB](#)) form to do this. If you have not reached an agreement before the trial, organize your paperwork and evidence in support of your claim and make enough copies for the court and all parties. If you have witnesses, arrange for them to attend. Practice what you are going to say. Make sure to follow local court rules for filing documents or statements before the trial.
- 11. **Attend the trial.** Be on time and be polite. Don't get emotional. Explain why the court should give you what you are asking for. The court will review your evidence and listen to your witnesses, if any. When the court makes its decision, listen carefully. See the instructional packet, *Basic Guide to Wisconsin Small Claims Actions*, ([SC-6000V](#)) form for additional information about preparing and attending trial.
- 12. **Complete any post-eviction judgment.** If you are granted an eviction judgment and the tenants do not move out, you must have the sheriff help you remove the tenants. In order to do so, you must pay a fee to obtain a signed *Writ of Restitution*, ([SC-512](#)) form from the clerk of court. Take the writ to the sheriff within 30 days of being issued by the court. You will be required to pay a service fee to the sheriff. You may also be required to provide a bond to the sheriff. Contact the local sheriff's department for additional information. You

may be required to obtain a sheriff's indemnity bond from your insurance company before the sheriff will serve the execution. Contact the appropriate sheriff for further instruction.