

## **ROCK COUNTY SMALL CLAIMS INSTRUCTIONS**

The small claims filing fee is **\$94.50**. Be sure to fill out the form completely, including names, addresses and dates. Small Claims hearings are held every FRIDAY at 8:00 A.M. in the JURY ASSEMBLY ROOM on the 2<sup>nd</sup> floor of the Rock County Courthouse. The defendant must be served with the Summons and Complaint at least 8 days before the return date. Rock County sets return dates approximately 21 - 30 days from the date of filing, but not more than 30 days. **One exception** is an **Eviction** which must be personally served at least **5 days before** the return date. If an eviction action is contested it will be heard in the Duty Judges courtroom and you will be directed where you need to go. Please note that the Duty Judge will hear the **EVICTIION PORTION ONLY**. Any money issues will be assigned to a Judge and a Notice will be mailed to all parties of that hearing date. Landlords may obtain further information on Writ's of Restitution for Eviction from the Clerk of Courts Office. Rock County Sheriff's procedures are on the internet at <http://www.co.rock.wi.us/>.

Be sure to state the amount being claimed **not** to exceed \$5,000.00. **Do not** include filing or service fees in that amount. These are allowable costs that will be added when you are awarded your judgment. The complaint must be notarized and that can be done in the Clerk's office or with any other notary public. When the summons and complaint are complete, file it back with the Clerk of Courts and decide how you want the defendant served.

**REGULAR MAIL:** Service may be made by regular mail **if the defendant lives in Rock County**. The mailing **MUST** be done by the Clerk of Court's Office. This may be done by leaving the original, a copy for each defendant and a \$2.00 mailing fee per defendant with the clerk's office. Service is considered complete when it is mailed, unless the envelope containing the summons and complaint is returned unopened to the clerk's office. If this happens the court will notify you with a new court date so service can be tried again. Only the court can do mail service.

**PERSONAL SERVICE:** **EVICTIION'S, REPLEVIN'S (return of property), and OUT OF COUNTY DEFENDANT'S MUST be personally served.** This means you will have to hire the appropriate County Sheriff's Department (Rock County 757-7946) or a process server to hand deliver the papers to the defendant. After service has been obtained, you should receive an **affidavit of service** from them. This must be filed with the Clerk of Court's office **before** the court date. Please make sure the amount charged for this service accompanies the proof of service.

*It is the plaintiff's responsibility to notify the Clerk of Courts Office if they have not been able to serve the defendant **prior to the court date.** (743-2210.)*

**IF** the plaintiffs DOES NOT have an address in Rock County the following is to apply:

- (a) In the county where the claim arose;
- (b) In the county where the real or tangible personal property is situated;
- (c) Where the defendant resides or does substantial business; or
- (d) If (a) to (c) do not apply, then in the county designated by the plaintiff.

## **MANDANTORY APPEARANCES ARE REQUIRED BY BOTH PARTIES**

If the plaintiff or their attorney fails to appear the case will be dismissed. If the defendant fails to appear a default judgment will be entered. If the defendant lives out of state they may file a written answer with the court and plaintiff prior to the return date and the case will be set for trial. A Notice for hearing will be mailed to the defendant. This will waive the out of state defendants 1<sup>st</sup> appearance only.

If parties appear and the defendant denies the complaint, the Court Commissioner will conduct a pretrial conference and a hearing date will be set. On the date of hearing both parties will bring their witnesses and any evidence they have in support of their case. The Court Commissioner will make a decision to enter judgment or dismiss the case. The decision of the Court Commissioner will become final after 10 days. There is an absolute right to have the matter heard before the court. Either party may request a trial by a Circuit Court Judge. They must file a "Demand for Trial" form WITHIN 10 DAYS of the decision.

If a default judgment is granted the plaintiff MUST file an Affidavit of Non-Military Service. These forms are available in the Clerks office. These are to be used for individuals and any business that is NOT a Corporation.

Once you have obtained your judgment, you may have the judgment docketed by paying a \$5.00 fee. This will place your judgment on the Civil Lien Index and will be recorded by Credit Bureaus, Title Researchers and may even act as a lien on any property owned by the debtor in Rock County.

When you have obtained payment in full for your judgment it is your obligation to supply the debtor with a Satisfaction of Judgment. These forms may be obtained at the Clerk of Courts Office or from the Internet @ [wicourts.gov](http://wicourts.gov). It is the responsibility of the debtor to file the ***Original Satisfaction*** with the court and pay a \$5.00 fee.

There is a Small Claims Guide that can be downloaded off the internet or purchased at the Clerk of Court Office. This guide has a lot of information that may answer some other questions you may have.

## **WEBSITES**

[www.wicourts.gov](http://www.wicourts.gov) – Forms, Guides, CCAP Access, etc.

[www.co.rock.wi.us](http://www.co.rock.wi.us) – Rock County Sheriff's procedures, etc.