

COSTS

State law directs the Clerk of Circuit Court to compute costs and insert them in the judgment in the favor of the successful party as follows: filing fee, service fees, statutory fees, witness fees, jury fee, and any other costs which may be allowed by the court.

DISCLOSURE OF ASSETS

State law provides that a person obtaining a judgment for money is entitled to receive information regarding the financial status of the unsuccessful party within 15 days after entry of judgment. Forms called Order for Financial Disclosure and Financial Disclosure of Assets are automatically sent to debtors. Failure of the judgment debtor (unsuccessful party) to provide this information in writing to the judgment creditor is punishable by court imposed sanctions. The judgment creditor may compel the judgment debtor to appear in court and disclose this information by filing a Petition and Order for Hearing. This form is available in the Clerk of Courts office. If the judgment debtor fails to appear at this hearing, the court may issue a warrant for arrest.

COLLECTION

A court judgment in your favor does not automatically result in the payment of money. You must initiate collection of a judgment. Further court procedures are necessary. The primary methods available to small claims litigants for enforcing the payment of judgments are: (A) Garnishment and (B) Writs of Execution. (A) Garnishment is a method of collection that allows the judgment creditor to obtain monies owed by others to the judgment debtor, usually

attaching the judgment debtor's earnings or bank accounts. (See §814 Wis. Stats.)

(B) A judgment creditor may ask the court for a Writ of Execution directing the sheriff to seize specific, non-exempt personal or real property belonging to the judgment debtor for the purpose of satisfying a judgment. You may want to obtain professional advice to decide if a Writ of Execution is appropriate for your case. (See §815 Wis. Stats)

DOCKETING

THE JUDGMENT

Once a judgment has been obtained, the judgment creditor may "docket" it by paying the docket fee to the Clerk of Court. When a judgment is docketed, the effect is to place a lien on any real estate owned by the judgment debtor in Crawford County for 10 years. However, it is not required that a judgment be docketed to attempt collection from the judgment debtor.

Small Claim Procedure In Brief



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INTRODUCTION

A small claims action may be filed if the claim does not exceed \$5,000. All eviction cases, regardless of the amount of damages claimed, are filed in small claims court.

You are responsible for presenting your own case. It is not necessary to be represented by an attorney. The Clerk of Circuit Court, court commissioners and other court personnel are not authorized to provide legal advice. This brochure is intended only as a summary of basic procedures and information.

Small Claims procedures are contained in Chapter 799 of the Wisconsin Statutes. The number for the Small Claims Clerk is (608)326-0209.

Venue

For most claims, the proper county to file your lawsuit is:

- (1) Where the claim arose;
- (2) Where the subject property is located;
- (3) Where the defendant resides or does substantial business.

It is your responsibility to review the facts of your case and to decide where to file your action.

FORMS

Small claims summons and complaint forms are obtained from the Clerk of Circuit Court on the Second Floor, Courthouse, 220 North Beaumont Road, Prairie du Chien, WI 53821 or from the Court's website: wicourts.gov.

A case number will be assigned when the summons and complaint is filed.

SETTING A HEARING DATE

All actions are scheduled for 9:00 am, two Mondays per month. Please contact the Clerk of Courts Office for a date. All small claims cases are heard in the courtroom, Courthouse. Make sure that you allow adequate time to accomplish timely service when choosing your court date. Remember that Saturdays, Sundays, and holidays are not included in computing the number of days required for proper service.

In eviction action, the court date cannot be more than 30 days from the date the summons is issued. The summons is issued when it is signed and dated. The defendant must be served at least five days prior to the return date. (first court date)

For all other small claims cases, the first court date cannot be more than 30 days from the "issue" date. The defendant must be served at least eight days prior to the return date.

SERVICE OF SUMMONS

Summonses and complaints may be served by the sheriff, a private process server, or any adult resident of the state who is not a party to the lawsuit or by regular mail if the party is a resident of Crawford County. If the party is out of County, sheriff service must be obtained. If you choose the sheriff, the papers should be taken to Crawford County Sheriff's Department. The sheriff's hours are Monday through Friday, from 8:00am to 4:00pm. The fee for service by the sheriff is set by law.

The Crawford County sheriff does not serve papers outside of Crawford County. If service is to be made outside of the court, contact the sheriff for that county or a private process server to make service arrangements.

A copy of the summons and complaint should be personally served on the defendant or a competent member of the defendant's household.

If, with reasonable diligence, the defendant cannot be personally served, the plaintiff may appear on the court date and ask for an adjournment to allow for service by publication. Publication is accomplished by placing a notice in the legal section of a local newspaper for one week and mailing a copy of the summons and complaint to the defendant's last known address. Publication forms are available on the Court's website: wicourts.gov.

FILING SUMMONS AND COMPLAINT

The original summons and complaint must be filed with the Clerk of Court with an affidavit of non military service before service can be made.

HEARINGS

The plaintiff must appear at the court date or the case will be dismissed. If the defendant does not appear a default judgment will be granted. If the defendant appears, the parties may consider a settlement. If no settlement occurs, a trial will be held at a specific time set by the court. The judge will weigh the evidence and render a decision.

JUDGMENT

If a judgment is rendered by a judge or a court commissioner after the final hearing or trial, it will be entered on the court record by Clerk of Circuit Court staff and a Notice of Entry of Judgment will be mailed to each party at their last known address. This notice will state the amount of the judgment, including statutory costs.