# Basic Guide to
# Wisconsin Small Claims Actions
# La Crosse County

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**https://myforms.wicourts.gov**

# Important Court Related Offices

## Small Claims Division

**Physical Address:**
Courthouse
333 Vine Street
La Crosse, WI 54601

**Mailing Address:**
Same

**Phone:** 608-785-9705
**Contact:** Shirley
**Directions:** Room 1200 - Top of the stairs after you go through the scanner.

## Court Self-Help Center/Services

Self-Help Services are not available in La Crosse County, however it is recommended that you have a friend or relative review your forms for completeness.

**Forms are available at:**
**Location:** Clerk of Courts office Room 1200
**Cost of Small Claims Form Packets:** None

## Americans With Disabilities Act

If you need accommodations for a disability contact:
Pam Radtke
608-785-9590

## Notary Public Services

**Directions:** Room 1200
**Fee:** None
**Location:** Clerk of Courts office

## Copy Services

Copy machines are not available in the Courthouse. Please make other arrangements.

The Clerk will make copies for you for 1.25 per page.

## Process Service

**Sheriff's Department**
**Name/Agency/Unit:** La Crosse County Sheriff Department process service
**Address:** 333 Vine Street
La Crosse, WI 54601
**Phone:** 608-785-9629
**Fee:** 80.00

**Other Professional Process Services Available Locally**
There are private process servers in La Crosse County.

# Introduction

This guide is provided by the Wisconsin court system to give you general information about Wisconsin small claims actions. 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 http://www.wicourts.gov/forms1/circuit.htm.

## General Information About Small Claims Court

### What is Small Claims court?

Small claims court is a special court where disputes are resolved more quickly and inexpensively than in other court proceedings. The rules in small claims court also are simpler and less formal. The person who sues is called the plaintiff. The person who is sued is called the defendant.

### What kinds of cases go to Small Claims court?

The four most common types of small claims cases are:

- Claim for money: civil actions where the amount claimed is $10,000 or less, if the actions or proceedings are:
  - For money judgments only, or
  - For garnishment of wages.
- Tort/Personal Injury: civil actions where the amount claimed is $5,000 or less.
- Eviction actions: Actions for eviction regardless of the amount of rent claimed.
- Replevins:
  - Non-consumer credit actions for replevin (return of personal property) if the property claimed does not exceed $10,000, or
  - Consumer credit transactions (for return of personal property that was the subject of a lease or credit from a dealer) when the amount financed is $25,000 or less.

Three less common types of small claims cases are:

- Return of earnest money for purchase of real property
- Action on an arbitration award for the purchase of real property
- Eviction action due to foreclosure

See also §799.01(1), Wisconsin Statutes, the Legal Glossary (page 13 of this document), Pre-Judgment: Basic Steps for Handling a Small Claims Case for Eviction (SC-6010V), Pre-Judgment: Basic Steps for Handling a Small Claims Case for Recovery of Money (SC-6020V), and Pre-Judgment: Basic Steps for Handling a Small Claims Case for Replevin (SC-6030V) for further information.

### What is a tort or personal injury action?

A tort is a wrongful act that injures someone, where the injured person may sue the person/business causing the injury for money damages. The injury may be to a person's body, property, business, reputation, or other interest. The act may be the result of carelessness (called "negligence") or may be intentional. A tort is different from a breach of contract or a crime.

For more information about torts/personal injury actions, please see Appendix A: "Personal Injury - Helpful Information" at the end of this document.

### Who can sue in Small Claims court?

Any mentally competent person who is:

- 18 years or older; OR
- An emancipated child.

If a person is mentally incompetent or under 18 years of age (and not emancipated), a judge must appoint a guardian ad litem to represent the interests of that person. A guardian ad litem is an attorney.

## Do you have to have an attorney?

Whether to hire an attorney is your decision. Many people feel that they can handle their legal matters without an attorney in small claims court. When you represent yourself in court without an attorney it is called "self representation" or "pro se".

Even if you do not intend to hire an attorney to represent you at trial, you may wish to contact an attorney for advice about your legal rights. An attorney may be able to advise you whether you have a valid claim or defense, about the types of evidence you will need to prove it, and may even be able to assist you in settling your case. If you cannot afford an attorney, there are organizations that may be able to assist you.

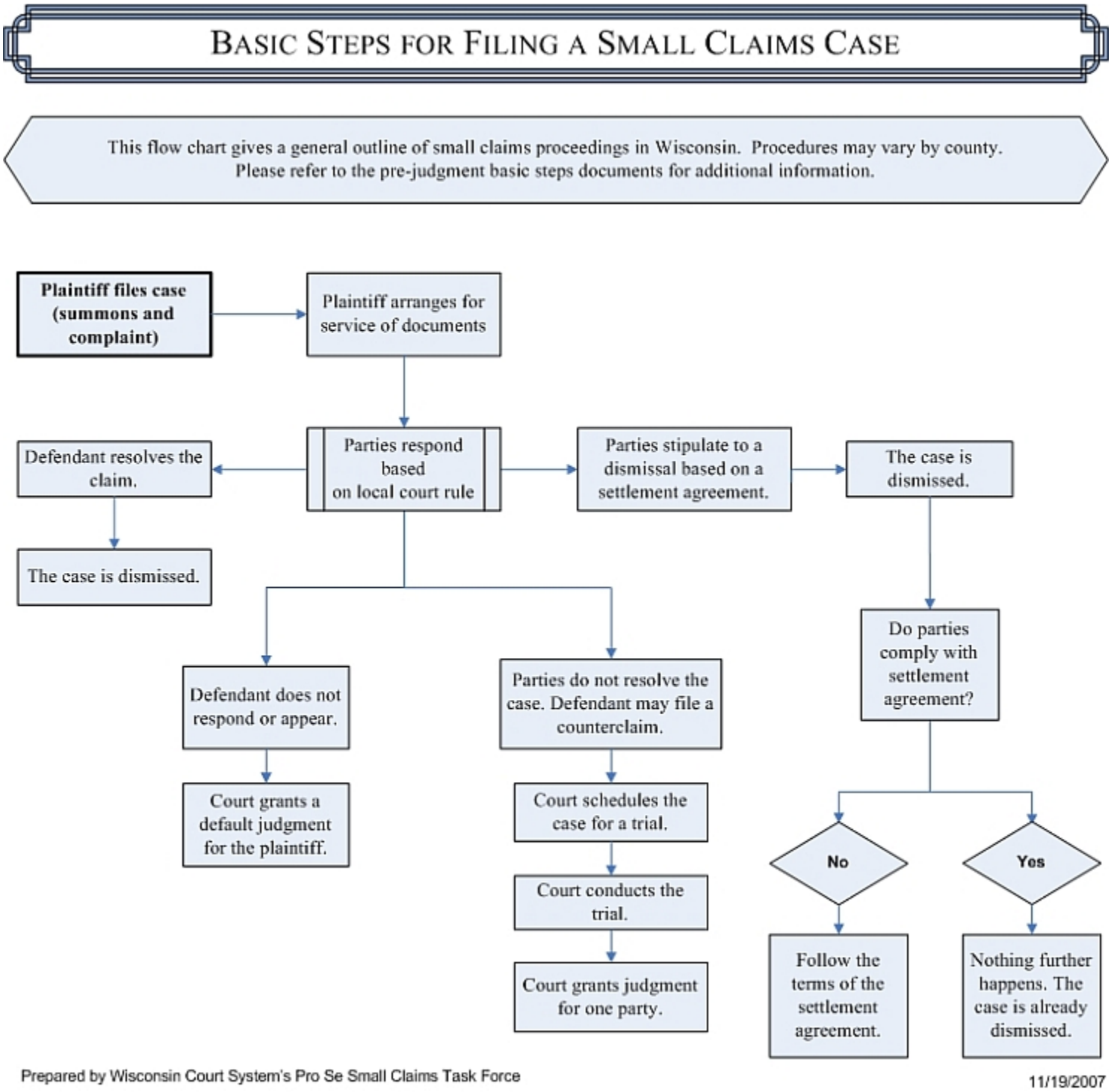
Court staff **may** provide general information about court rules, procedures, practices, and terms. Judges, court commissioners, and court staff **cannot** give you legal advice.

## Try to settle first!

To avoid the time and expense of going to court, try to settle the matter first. Contact the other party or their attorney, discuss the situation, and try to solve the problem by an agreement you can both accept. Even after your small claims suit is filed, you may still engage in settlement negotiations with the opposing party. Don't be reluctant to compromise; even in large civil lawsuits, more than 90% are settled prior to trial.

## Small Claims Pre-Judgment Flowchart

Even though each county may do things a little differently or call various hearings by different names, there is a basic structure to how a small claims action will proceed in Wisconsin. The flowchart below is a brief representation of the process.




However, there are different procedures for the various types of small claims actions that can be filed. Also, there may be specific procedures that you must complete in some counties. Please refer to Pre-Judgment: Basic Steps for Handling a Small Claims Case for Eviction (SC-6010V), Pre-Judgment: Basic Steps for Handling a Small Claims Case for Recovery of Money (SC-6020V), Pre-Judgment: Basic Steps for Handling a Small Claims Case for Replevin (SC-6030V), Pre-Judgment: Basic Steps for Filing an Answer to a Small Claims Complaint (SC-6040V), and Pre-Judgment: Basic Steps to Small Claims Service (SC-6050V) for an overview of the basic steps involved in completing these actions.

# I Would Like To File A Small Claims Case

## Who do I sue?

It is important that you sue the right party. Naming the wrong party could result in the dismissal of your case. To assist you, please see the "Suing the Right Party" appendix at the end of this document.

## Do I have to pay to file a Small Claims action?

Yes. You will have to pay the Clerk of Court a fee to file your Summons and Complaint. This small claims filing fee is set by state law (http://www.wicourts.gov/about/filing/docs/fees.pdf). This and certain other fees may be charged against the other party if you win your case.

However, if you cannot afford the filing fee, you may complete the Waiver of Filing Fees and Affidavit of Indigency (CV-410). If the court finds that you cannot afford to pay, the court may waive the filing and service fees.

## Where do I file my Small Claims case?

If you determine that your claim can be brought as a small claims case and have determined the right party to sue, you will need to decide where you should file the small claims action.

- Eviction actions. Actions for eviction should be filed:
  - In the county where a defendant resides;
  - In the county where the rented property is located;
  - In the county where a written lease was signed.
- Return of earnest money. Actions for the return of earnest money should be filed:
  - In the county where a defendant resides;
  - In the county where the real estate is located;
  - In the county where the purchase contract was signed.
- Replevins. Actions for replevin (return of personal property) should be filed:
  *For Non-consumer claims:*
  - In the county where a defendant resides;
  - In the county where the personal property is located;
  - In the county where the claim arose;

  *For Consumer claims:*
  - Where the customer resides or is personally served;
  - Where the collateral securing a consumer credit transaction is located; or
  - Where the customer sought or acquired the property, services, money or credit which is the subject of the transaction or signed the document showing his or her obligation under the terms of the transaction.
- Arbitration. Actions for the confirmation, vacation, modification or correction of an arbitration award should be filed:
  - In the county where a defendant resides;
  - In the county where the real estate is located;
  - In the county where the claim arose.
- Other civil actions. In other civil actions where the amount claimed is $10,000 or less, or for torts or personal injury actions where the amount claimed is $5,000 or less, the action should be filed:
  *For Money judgments:*
  - For Non-consumer claims:
    1. In the county where a defendant resides;
    2. In the county where the claim arose.
  - For Consumer claims:
    1. Where the customer resides or is personally served;
    2. Where the customer sought or acquired the money or credit which is the subject of the claim or signed the document showing his or her obligation.

  *For Garnishment:*
  - In any county in which the garnishee resides or, if not a resident of the state, is found; or, the county in which the summons in the principal action was issued or where the judgment therein is entered.

## How do I file the Small Claims Case?

Complete the Summons and Complaint (SC-500) form and make two copies for each defendant. Take the original and copies to the Clerk of Court's office for filing and payment of the filing fee.

## I Have Been Sued In Small Claims Court, Now What Do I Do?

The first thing you should do is **READ THE ENTIRE SUMMONS AND COMPLAINT. DO THIS NOW!**

The Summons and Complaint will tell you:

- **Who is suing me?** The person suing you is the person listed in the Summons and Complaint as the Plaintiff. You are the Defendant. If the plaintiff has an attorney, the Summons and Complaint will also list the attorney's name and address.
- **Why am I being sued?** The Summons and Complaint will tell you why the Plaintiff is suing you. There are many reasons a claim could be filed. Some common examples are:
  - If you are renting property, the plaintiff may be your landlord and claims you have not paid your rent or have not lived up to your rental agreement, whether it is in writing or not.
  - If you bought a car or some other item on credit, the bank or finance company may claim you are behind on your payments.
  - The plaintiff may claim you owe money or that the plaintiff was injured or the plaintiff's property was damaged and claims it is your fault.
- **What does the Plaintiff want from me?** The Summons and Complaint will tell you what the plaintiff wants from you. Some common examples are:
  - If you are renting property, the plaintiff may want rent or money for utility bills that are not paid, or money for damage to the property, AND may want you evicted (removed) from the property.
  - If you bought something on credit, like a car, the plaintiff may want to get the car from you plus the money you still owe after the car is sold.
  - If the plaintiff claims you owe money, the plaintiff wants money from you.

## What if I disagree with what the Plaintiff says?

If you don't agree with what the plaintiff claims or if you don't agree with what the plaintiff wants from you, **YOU MUST ANSWER THE COMPLAINT.**

Each county can have different procedures to answer the Complaint. You may have to answer the Complaint in writing or in person or both. If you need to appear in person to answer the Summons and Complaint, the Summons and Complaint will tell you when and where to appear. If you need to file a written answer, the Summons and Complaint will tell you where to file the answer. For more information, see Pre-Judgment: Basic Steps for Filing an Answer to a Small Claims Complaint (SC-6040V).

IF YOU DON'T ANSWER THE COMPLAINT PROPERLY, A JUDGMENT MAY BE ENTERED AGAINST YOU.

## How do I answer the Complaint in person?

Some counties require you to answer the Complaint in person. If you have to answer the Complaint in person, the Summons and Complaint will state the court date and where and what time you need to appear.

You must appear on time and it is recommended that you arrive at least 15 minutes early. If you have any questions about where you should appear, go to the Clerk of Court's office. IF YOU FAIL TO APPEAR ON TIME, A JUDGMENT MAY BE ENTERED AGAINST YOU.

When your case is called, be prepared to say if you are or are not contesting the claim. You may want to bring along with you some short notes to help keep yourself organized. If you have a counterclaim and have not already filed it, you should file it at this time and give a copy to the plaintiff.

## How do I answer the Complaint in writing?

Some counties require you to answer the Complaint in writing. If you have to answer the Complaint in writing, the Summons and Complaint will state where to file your written answer. In your answer, state why you disagree with the plaintiff and what defenses you feel you have to the plaintiff's claim. You may use the small claims form Answer and Counterclaim (SC-5200V). The form has step-by-step instructions on the left side to help you fill it out.

When you have completed your Answer and Counterclaim form, follow the instructions in the Summons and Complaint that tell you where to send the Answer. You must send a copy of your written Answer to the plaintiff.

IF YOU FAIL TO FILE YOUR WRITTEN ANSWER PROPERLY, A JUDGMENT MAY BE ENTERED AGAINST YOU.

## What if I have a Claim against the Plaintiff?

If you believe that you have a claim against the plaintiff, you may file a counterclaim, which is the legal term for a defendant's claim against the plaintiff.

Use the form Answer and Counterclaim (SC-5200V) to prepare your counterclaim. Clearly describe your claim in your own words. Make sure to include any relevant dates and specific facts. State the amount of money you believe you are owed and also state any other action you are asking the court to take. Think carefully about how much your claim is worth. This is important because the amount of your claim affects how you proceed with your counterclaim and whether there will be a filing fee for the counterclaim *(see below: "What if I want to Counterclaim for more than $10,000 or I want to file a tort or personal injury counterclaim for more than $5,000?").*

File your counterclaim with the clerk of court in the same county where you are being sued by the plaintiff. Each county can have different procedures for filing a counterclaim, so check with the clerk of court to find out the specific county rules for filing a counterclaim. There is no fee for filing a counterclaim unless your claim is for more than $10,000 or **unless** you file a tort or personal injury counterclaim that is more than $5,000.

Prepare two copies of your counterclaim for each plaintiff so the clerk can file stamp them and return them to you. You must then provide those copies to each plaintiff. In most cases you should be able to serve the counterclaim on the plaintiff by mail, but you should check local court rules for guidance on how to serve a copy of the counterclaim on the plaintiff. There will be a service fee if you use the sheriff or a process server to serve the plaintiff with a copy of your counterclaim.

Once you have served the plaintiff with the counterclaim, complete the Affidavit of Mailing (SC-5130V) and file it with the Clerk of Court. Follow the local court rules for attending the next court date.

## What if I want to Counterclaim for more than $10,000 OR I want to file a tort or personal injury counterclaim for more than $5,000?

If your counterclaim demands more than $10,000, or if you want to file a tort or personal injury counterclaim demanding more than $5,000, you will have to pay a filing fee to the clerk of court. The actual counterclaim over $10,000 must be personally served on the plaintiff. Have the sheriff or process server serve the counterclaim on the plaintiff(s) within 60 days of filing and file the proof of service with the clerk of court. Because a counterclaim over $10,000 takes the case over the small claims dollar limit, the case may be transferred to regular civil court for scheduling and further proceedings.

In addition to completing the Answer and Counterclaim (SC-5200V) form as explained in the previous section, you will also need to file the form Notice of Filing a Counterclaim over $10,000 or Tort/Personal Injury over $5,000 (SC-5250V). You should mail the Notice of Filing a Counterclaim over $10,000 or Tort/Personal Injury over $5,000 to the plaintiff(s) on the same day you file the counterclaim with the clerk of court. Once you have mailed the Notice of Filing a Counterclaim over $10,000 or Tort/Personal Injury over $5,000 to the plaintiff, complete the Affidavit of Mailing (SC-5130V) and file it with the clerk of court.

## Can I try to settle the case?

Yes. Some counties may have mediation services available to help you reach an agreement with the other party. You may also contact the other party directly at any time to try to reach a settlement agreement.

## What if I don't contest the plaintiff's claim and have no counterclaim?

If you DO NOT contest the plaintiff's claim and have no counterclaim, it is not necessary to appear in person or file a written answer. If you do not appear or file a written answer, a judgment will probably be granted to the plaintiff for what the plaintiff is asking for in the Summons and Complaint, plus court costs.

## What happens if I do nothing?

If you do not appear or file an answer, as required by local court rule, the plaintiff will probably obtain a judgment against you for whatever they are asking for in the summons and complaint. If you decide not to contest the case, it is not necessary to go to court or file an answer.

# My Case Is Going To Trial: Preparing For And Participating In A Contested Trial

## Now do I need a lawyer?

Before attempting to handle a contested small claims hearing on your own, you should consider seeking legal assistance. There are specific and complicated rules that must be followed in a small claims hearing. You are strongly encouraged to try to settle your case before trial.

## Preparing Your Case

**Collect and preserve any documents or other evidence needed for trial**
Plan to put your proof together so that it is more convincing than the other side's proof. The plaintiff bears the burden of proving his or her case "by the greater weight of the credible evidence." Collect and preserve any documents or receipts from your dealings with the other party. Making a detailed timeline of all of the events involved may help you present your case in a more organized way.

**Determine what witnesses you will need**
Determine what witnesses, if any, you will need to have testify at the trial. Friends and relatives may come voluntarily, but business people, police officers and others with no personal interest in the outcome of your case may not. In that case, if the witness lives in Wisconsin, you can force the witness to come to court by serving a subpoena. A "subpoena" is a court order compelling a witness to come to court on the date and time of the trial.

- Subpoena forms can be obtained without charge from the Clerk of Court's office.
- If you need the witness to bring documents or other evidence to the trial, you need to specifically state what the witness is to bring on the subpoena form.
- You will need to have the subpoena served on the witness by the Sheriff or a private process server in a reasonable time before the trial.
- You will also need to serve with each subpoena a check for the witness fee, which is $16, plus $0.20 per mile the witness has to travel to and from the courthouse.

An expert is a person with special training, experience, or expertise in a field beyond the knowledge of an ordinary person. For example, if your case involves defective merchandise or faulty repairs, a full-time mechanic or repairer with several years of experience may qualify as an expert. The expert can charge whatever he or she wishes for the testimony. The

standard $16 witness fee does not apply to experts. If you win, the cost of the expert, up to $300, can be added to any judgment.

Having the expert testify in person is almost always necessary. Merely repeating what your expert told you will probably not be allowed. A written statement or affidavit from the expert will not be sufficient.

## Participating in Trial

**How the trial will work**
You and your witnesses should show up at least 15 minutes early to the assigned courtroom on the date and time of the trial. If there is a bailiff or court clerk present, let him or her know that you have arrived. You should bring any proof with you that you feel is necessary to present your case.

The plaintiff presents his or her side of the story first; then the defendant is able to present his or her case. After swearing or affirming to testify truthfully, tell your story, giving clear and concise details to support your claim. Keep to the key facts and do not discuss side issues unless a question requires it. If you have written documents, or other evidence to support your claim, show them to the judge or commissioner and defendant, explaining what it is and how it relates to your case. Bring copies of each document for you, the judge, and all parties.

At the conclusion of the plaintiff's testimony, the judge or commissioner may ask some questions. The defendant then has the right to cross-examine the plaintiff. When that is completed, the plaintiff may call any other witnesses he or she has. The judge or commissioner may ask questions and the defendant may cross-examine any of the plaintiff's witnesses.

The defendant follows the plaintiff and presents his or her case in the same way. The plaintiff may cross-examine any of the defendant's witnesses.

Small claims trials are conducted in an informal manner. Any evidence having reasonable value as proof may be offered. However, the judge or commissioner may refuse to hear evidence or arguments that are repeated or irrelevant.

# I Won A Small Claims Action, Now What Happens?

## Can I recover my costs?

If you win a small claims case, the court can include court costs and certain fees you incurred in the case. Court costs you may be able to recover include:

- the filing fee for the case,
- the mailing fee for the summons and complaint, or the service fees, if you had to have your case served by the sheriff or a process server,
- witness fees, if the witness was subpoenaed and paid the statutory fee to attend,
- attorney fees, if an attorney appeared with you in court.

Not all costs can be passed on to the losing party. For example, you cannot recover lost wages for appearing in court or parking and transportation costs for coming to court. You also cannot recover attorney fees for consulting with an attorney about your case, if that lawyer did not formally appear with you in court.

## How do I enforce the judgment?

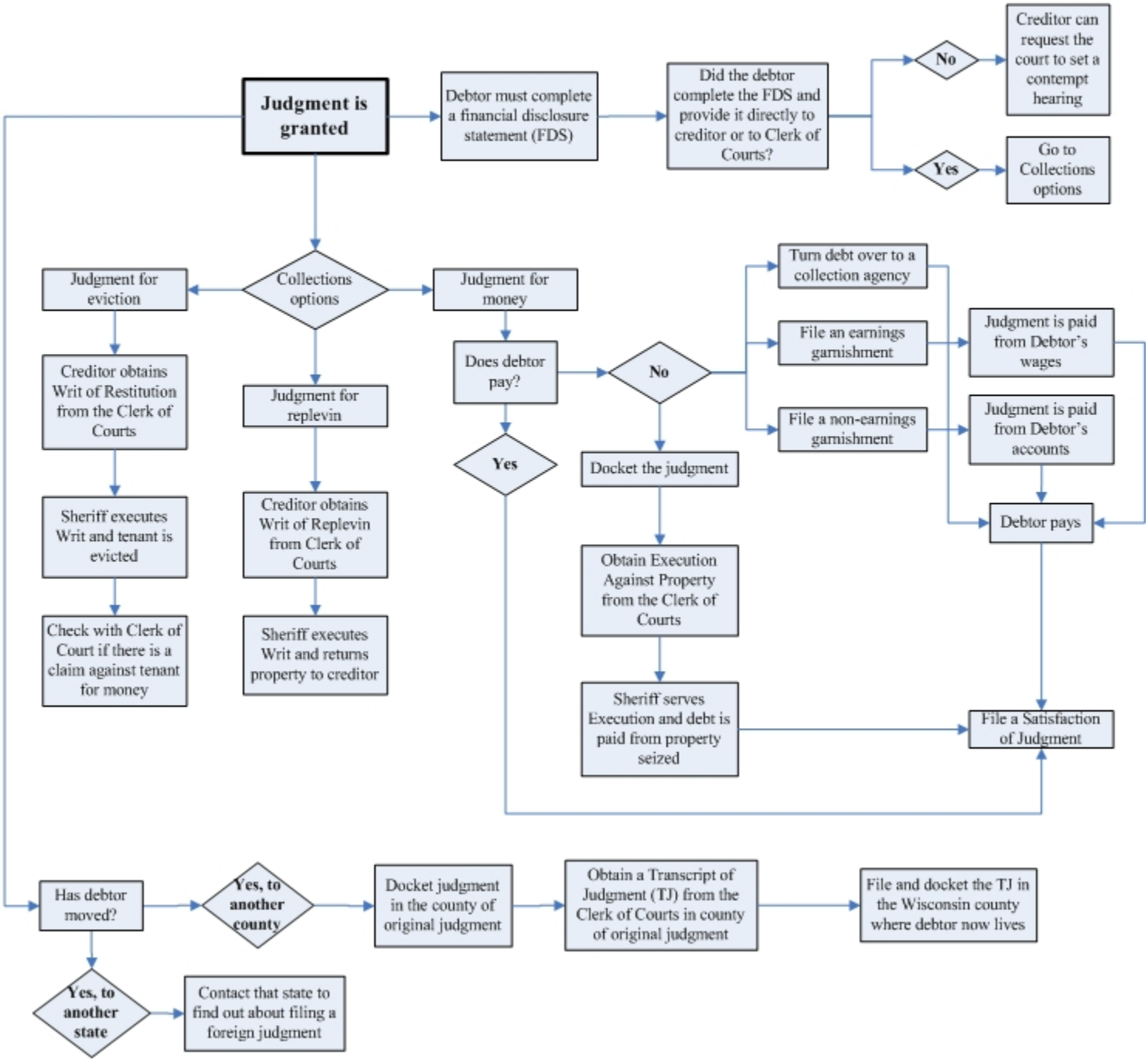
See Post-Judgment: Basic Steps for Docketing a Judgment for Collection (SC-6060V), Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment (SC-6070V), Post-Judgment: Basic Steps for Handling an Execution Against Property (SC-6080V), Post-Judgment: Basic Steps in Collecting on a Judgment for Money (SC-6090V), and Post-Judgment: Basic Steps in Collecting on a Judgment for Replevin (SC-6100V).

## Small Claims Post-Judgment Flowchart

Even though each county may do things a bit differently, there is a basic structure to the small claims post-judgment process in Wisconsin. The flowchart below is a brief representation of the steps one may take to enforce judgments. The judgment should be docketed in all cases.

# SMALL CLAIMS: POST-JUDGMENT

This flow chart gives a general outline of judgments in small claims cases in Wisconsin. Procedures may vary by county. Please refer to the post-judgment basic steps document for additional information.




Prepared by Wisconsin Court System's Pro Se Small Claims Task Force 11/19/2007

# Appealing And Reopening Small Claims Decisions

## I don't agree with the decision made in my case. Can I appeal the decision?

If a court commissioner made the decision in your case, you may request a trial before a judge. If the court commissioner's final decision was made during a hearing, either party has 10 days to request a trial. If the court commissioner's decision was made in writing after the hearing, either party has 15 days from the date the decision was mailed to request a trial. You must complete the Demand for Trial and Instructions (SC-517) form, and file the form in the Clerk of Court's office in the same county where the court commissioner heard your case. The party demanding the trial must mail a copy of the Demand for Trial and Instructions to the other party within the time limits. The party demanding the trial is responsible for providing proof that the form was mailed to the other party.

If a judge has made the final decision in your small claims case and you are dissatisfied with that decision, you may appeal that decision only to the Wisconsin Court of Appeals. There are no special small claims rules or forms for appeals and filing an appeal can be a complex process. On the Wisconsin Court System website (http://www.wicourts.gov), in the self-help center, you will find a publication entitled "A Citizen's Guide to Filing an Appeal in the Wisconsin Court of Appeals," which will provide you with information on filing an appeal. Or, you may wish to contact an attorney about filing an appeal. There are strict time limits for filing an appeal, so if you think you may appeal your small claims case do not delay in making that decision.

## How do I reopen a Small Claims case?

If you do not follow the small claims rules for the county where you are being sued and you are the defendant, a judgment may be entered against you; if you are a plaintiff, your case may be dismissed. This usually happens when one of the parties fails to appear in court for a required hearing. Whether you are the plaintiff or the defendant, you may file a motion to reopen the case within 12 months after the judgment was entered, in which you explain your reasons for missing court or for failing to do what the court asked. See forms Petition to Answer or to Reopen Small Claims Judgment and Order (SC-511) or Motion to Reopen Small Claims Judgment and Order (SC-515). The court will determine whether you have a good reason to reopen the case. If the court reopens your case, you will be notified. Do not delay in filing a motion to reopen. If you wait, the court may be less likely to grant your motion.

# The Judgment Has Been Paid, How Do I Satisfy A Judgment?

When a defendant has paid the plaintiff's judgment, the plaintiff can complete a Satisfaction of Judgment form (GF-129). Once the plaintiff has completed the satisfaction, either the plaintiff or defendant can file it with the Clerk of Court in the county where the case was originally filed. There is a fee for filing a satisfaction. After receiving the satisfaction, the clerk will note on the case record that the judgment has been satisfied. If the defendant has partially paid the judgment, or if there is more than one defendant and only one defendant has paid, the plaintiff can still complete the satisfaction, but can note that the judgment has been only partially satisfied.

If you are a defendant and you have paid the plaintiff's judgment, but the plaintiff has not filed a satisfaction with the court, you should ask the plaintiff to complete a satisfaction. Make this request directly to the plaintiff, not through the court.

## Legal Glossary

Although small claims procedure is designed to be simple and easy to use, you will still come across some legal words and phrases when going through the court system. If you need help, look at our legal glossary to find out what some of these words and phrases mean.

**ACTION** - A lawsuit.
**ADJOURN** - To delay a hearing until a future time.
**ADVERSE PARTY** - Party on the other side of the lawsuit.
**AFFIDAVIT OF NON-MILITARY SERVICE** - Statement that, to the best of plaintiff's knowledge, the defendant is not now in the military.
**AFFIRMATIVE DEFENSE** - A new matter, which assuming the complaint to be true, constitutes a defense to it.
**ANSWER** - A statement by the defendant in response to the plaintiff's complaint.
**APPEAL** - A request that a higher court review and change the final decision in a case.
**ARBITRATION** - A form of alternative dispute resolution where an unbiased person or panel renders an opinion as to responsibility for or extent of a loss.
**BUSINESS DAYS** - Any calendar day except Saturday or Sunday and except the following business days: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving and Christmas, and that is not a legal or federal legal holiday.
**CALENDAR** - A schedule of cases to be heard in court.
**CALENDAR DAYS** - Any one of the seven days in a week.
**CAPTION** - The heading of a court paper, showing the court, county, names of parties and case number.
**CLAIM FOR MONEY** - A legal action in which a plaintiff argues that a defendant is indebted to the plaintiff for an amount of money.
**CLERK** - An administrative officer of the court.
**COMPLAINT** - The court paper that states why the plaintiff is suing and what plaintiff wants the court to order.
**CONSUMER** - an individual customer buying goods or services primarily for a personal, family or household purpose.
**CONTRACT** - An agreement.
**COUNTERCLAIM** - a claim entered by a defendant as a response to or as a defense against an earlier claim made against the defendant by the plaintiff
**COURT COMMISSIONER** - An attorney authorized to conduct hearings and initial proceedings.
**COURT TRIAL** - a trial in which the judge serves as the trier of fact.
**CREDITOR** - A person who is owed money.
**CROSS-EXAMINE** - to question a witness for the opposing side in a hearing or trial.
**CUSTOMER** - an individual buying goods or services.
**DAMAGES** - The amount of money requested in a lawsuit to compensate the plaintiff for injuries to person or property or for the defendant's failure to perform a contract.
**DEBTOR** - A person who owes money.
**DEFAULT** - Failure to answer a complaint or appear for a hearing.
**DEFENDANT** - The person who is sued.
**DEFENSE** - A reason why a claim in a complaint is not valid.
**DISMISSAL** - A court order terminating a case because the plaintiff has failed to appear in court or state or prove a valid claim.
**DOCKET** - (see Judgment and Lien Docket).
**EMANCIPATION** - when a child is no longer legally under a parent's control. In Wisconsin, a child is emancipated when he or she turns 18 years of age or marries.
**EVICTION** - An action by a landlord to remove a tenant from the landlord's property.
**EVICTION DUE TO FORECLOSURE** - An action to remove a tenant whose tenancy is terminated as a result of a foreclosure judgment and sale.
**EVIDENCE** - objects, information or statements that demonstrate or prove something.
**EXAMINE** - to ask questions of a witness or other party to a case in a court of law.
**EXECUTION** - A legal procedure in which the sheriff seizes a debtor's property to pay a judgment.
**EXEMPTION** - A law allowing a debtor to keep some property free from the claims of creditors.
**EXHIBIT** - A paper or thing shown to a court during a hearing and used as evidence.
**FEE** - A charge fixed by the law for the service of public officers.
**FORECLOSURE ON RESIDENCE** - residential real property where there is a delinquency or default on any loan payment or debt secured by or attached to the residential real property, including land contract payments.
**GARNISHEE** - In garnishments, the party who owes money to the debtor and is ordered to pay it to the creditor instead.
**GARNISHMENT** - A proceeding after judgment authorizing the creditor to be paid from the debtor's wages or bank

accounts.

**GUARDIAN AD LITEM** - An attorney appointed by the court to take legal action on behalf of a minor or an adult not able to handle his or her own affairs.

**HEARING** - the examination of a certain aspect of a case or the trial of a case in a court of law.

**JUDGMENT** - Final determination by the court.

**JUDGMENT AND LIEN DOCKET** - An official list of court judgments.

**JURY TRIAL** - a trial in which the jury serves as the trier of fact.

**LIEN** - the legal right to keep or sell somebody else's property as security for debt.

**NON-CONSUMER** - an individual or business customer buying goods or services for business reasons and not primarily for a personal, family or household purpose.

**NOTARY PUBLIC** - An attorney or other official authorized to certify the signing of sworn documents.

**PARTY** - A plaintiff or defendant in a case.

**PLAINTIFF** - The party who begins a lawsuit.

**PRETRIAL CONFERENCE** - A meeting between the parties, sometimes including a judge or court commissioner, to investigate settlement or narrow the disputed issues.

**PRO SE** - Latin meaning "for oneself, i.e., without the aid of an attorney.

**PROOF OF SERVICE** - that the delivery of a legal document such as a writ or summons was accomplished.

**REPLEVIN** - A lawsuit seeking return of property.

**RETURN DATE** - The initial date at which the defendant must respond, answer, or appear in court. In some counties, the plaintiff must also appear.

**RETURN OF EARNEST MONEY** - An action brought to recover money paid to a seller as a deposit for the purchase of real property.

**RETURN OF PROPERTY (REPLEVIN)** - An action brought to recover personal property being held by someone else.

**SATISFACTION** - A notice from the plaintiff stating a defendant has paid the judgment.

**SELF-REPRESENTATION** - (see Pro Se).

**SERVICE** - The delivery of the complaint, summons or other papers filed by one party to another party.

**SETTLEMENT AGREEMENT** - an agreement reached without completing legal proceeding.

**STIPULATED DISMISSAL** - A court order dismissing the suit upon agreement of the parties. If the agreement is not kept, the dismissal may be vacated and a judgment entered.

**STIPULATION** - A legally binding agreement between parties.

**SUBPOENA** - A court order that a witness appear in court.

**SUMMONS** - A court order that the defendant answer the complaint or appear in court at a stated time.

**TORT** - A tort is a wrongful act that injures someone, where the injured person may sue the person/business causing the injury for money damages. The injury may be to a person's body, property, business, reputation, or other interest. The act may be the result of carelessness (called "negligence") or may be intentional. A tort is different from a breach of contract or a crime.

**TRIAL** - a formal examination of the facts and law in before a court of law to determine an issue.

**VENUE** - The county or counties in which a lawsuit may be filed and tried.

# Appendix A - Personal Injury - Helpful Information

## I have been injured, now what?

If someone else is more at fault for your injury than you are, you may make a claim against that person or business and their insurance company, if any. The type of accident and the cause of the accident may affect whether you are entitled to compensation, as in the following examples:

*Motor vehicle accidents:* Fault or "negligence" is determined by traffic regulations and which driver's carelessness contributed most to the accident and injuries, including your own conduct such as failure to use seatbelts.

*Commercial accidents (such as in stores):* Injuries are compensable only if caused by an unsafe condition that the owner should have known of, appreciated, and corrected before the accident.

*Home/farm/apartment/recreation injuries:* Renters, owners, or residents may be found liable for injuries they cause by negligent maintenance, oversight, or attacks by pets; however, property owners who permit others to use their land without charge for recreational purposes may be completely immune to any claim for unsafe conditions, however flagrant.

*Government employees and premises:* Injuries caused by negligent public employees or unsafe conditions will be compensated only in limited circumstances and are subject to stringent notice and claim requirements. **State, federal, and local governments are given broad latitude to determine most matters involving public safety, including the design and maintenance of roads, parks, and facilities.**

*Workplace injuries:* Injuries at work generally are covered by worker's compensation benefits which compensate for medical expenses, lost wages, and permanent impairments, without regard to fault by anyone. If the accident was caused by someone other than the employer or a co-worker, a fault-based claim can be made that could include damages for pain and suffering in addition to the worker's compensation benefits.

*Intentional injuries:* Injuries inflicted on purpose by any means are not usually covered by the guilty party's liability insurance, although the responsible party may be personally liable for such harm.

*Other accidents:* More complicated rules determine if injuries caused by dangerous products, the accumulation of ice or snow, faulty professional services, or public utilities will be compensated. In addition, users of firearms, dog owners, and operators of restaurants, hotels, and public transportation may be liable for injuries they cause because the law imposes special responsibility for these hazards which your attorney can explain in more detail.

**Reprinted with permission from the State Bar of Wisconsin consumer pamphlet, *Answering Your Legal Questions* About Personal Injury. Find other consumer resources at legalexplorer.com**

## Appendix B: Suing the Right Party: Getting it Right the *First* Time

| Type | Definition | What is the Liability? | How do I tell? | Who gets named in the lawsuit? | Who gets served? |
|---|---|---|---|---|---|
| Natural Person | A living, breathing actual human being. | Personally responsible for obligations. | May not have a business name at all or may go by a "doing business as" tradename; in a business context this is known as a "sole proprietorship." | Individual person | Individual person (s.801.11(1)) |
| Partenership | Two or more natural persons who have joined together in order to conduct business. | Each partner is personally responsible for all the obligations incurred by the partnership. | May not have a business name at all or may go by a "doing business as" tradename. | Each individual partner | Each individual partner (s.801.11(6)) |
| Limited Partnership | A legally-created organization (under ch. 179, Wis Stats.) having one or more general partners and one or more limited partners. | General partners are liable for obligations; limited partners are not liable unless they are also general partners or participate in the control of the business. | Must have a business name containing the words Limited Partnership or the intials LP. | Business name | All general partners or Agent (s.801.11(6)) |
| Corporation | A legally-created organization owned by "stockholders" who have purchased or received shares of stock in the organization. | Individual stockholders are NOT personally responsible; only the assets of the corporation itself are liable for obligations. | Business name followed by the word "Incorporated" or "Inc." A corporation must give you fair notice that it is a corporate entity when dealing with you. | Business name | Officer, director, managing agent or Registered Agent (s.801.11(5)); contact the Wisconsin Department of Financial Institutions |
| Limited Liability Corporation | A legally-created organization (under ch. 183, Wis. Stats.) created by "members" who enter into an operating agreement concerning the business' activities. | Individual owners are NOT personally responsible; only the assets of the corporation itself are liable for obligations | Business name followed by the letters "LLC." A limited liability corporation must give you fair notice that it is a corporate entity when dealing with you. | Business name | |
| What is meant by "doing business as" or "DBA" | Often a natural person or a partnership will create a distinctive tradename under which to operate or advertise. For example, a person named Tom Smith might do business as "Smith Welding" or a partnership of Tom Smith and Peter Jones may do business as "Smith & Jones Welding." The legal designation in the case of a natural person would be "Tom Smith doing business as Smith Welding." | | Business or shop may have a business name on its paperwork (letters or invoices), advertising, or building without any designation that it is either limited or incorporated (for example, LP, Inc. or LLC). | Individual person(s) with additional words "doing business as [name]." | Same as for natural person or partnership |

**This document is only a general guide and cannot substitue for sound legal advice. There are many other types of business entities that exist in Wisconsin or which do business in Wisconsin. Any change in the facts of your particular case may drastically alter the type of entity with which you are dealing and the appropriate parties that should be named in YOUR lawsuit.**