

Chippewa County - Clerk of Courts Office
711 N. Bridge Street, Chippewa Falls WI 54729
715-726-7758 or 715-726-7760 (Small Claims Division)

SUMMARY OF SMALL CLAIMS PROCEDURES FOR PLAINTIFFS

A **SMALL CLAIMS GUIDE** can be purchased at the Clerk of Courts office for \$5.00, or you may access this Guide on the Internet at www.wicourts.gov (Click on the **how do I** button and select **File a Small Claims Action**). To better understand what to expect from small claims court, it is important that you read this book. If your questions cannot be answered, you may wish to call the **Lawyer Referral & Information Service** at 1-800-362-9082 or consult your own attorney. You may also want to take advantage of the **Free Legal Clinic** sponsored by Chippewa County Bar Association which is held at the Chippewa Falls Public Library every 4th Wednesday of each month from 6:30 p.m. to 8:00 p.m. **WE ARE NOT ALLOWED TO GIVE LEGAL ADVICE.** The Clerk of Courts office serves record keeping functions and is available to assist you only with non-legal, procedural information.

WHEN AND WHERE TO FILE SMALL CLAIMS

There is a **\$10,000** statutory limit for small claims. The most common types of small claims actions are:

- * **MONEY** when the amount is \$10,000 or less. Any action over \$10,000 must be commenced through civil proceedings.
- * **REPLEVIN** (Repossession of property) Non-consumer credit actions if the property claimed does not exceed \$10,000. Consumer credit actions when the amount financed is \$25,000 or less.
- * **EVICITION** regardless of the amount of rent claimed.
- * **TORT/PERSONAL INJURY** where the amount claimed is **\$5,000** or less.

Less common types of small claims actions 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.

Small claims actions are to be filed in the County where:

- The defendant resides or where the cause of action took place (See Guide Book)

FORM, FILING, AND SERVICE INFORMATION

FORMS: All the forms needed to proceed with a small claims action are available online and at the Clerk of Courts office.

LISTING THE DEFENDANTS: Defendants should be named as an individual or a corporation. For example: Jane Doe vs. John Smith **or** Jane Doe vs. John Smith d/b/a Smith's Snow Removal. If in doubt, please refer to the Wisconsin Statutes or secure a legal opinion.

SIGNING THE COMPLAINT: Sign, date, and insert your telephone number in the boxes provided at the bottom of the form. You do not need to complete the "Verification" section as Plaintiffs are required to make a personal appearance on the return date.

REPLEVIN ACTIONS: **For your benefit**, replevin claims should include a copy of the Loan or Rental Agreement and the Notice of Right to Cure.

EVICITION ACTIONS: **Per Chippewa County Circuit Court Rule 903.01**, the following documents **MUST** be filed with the Summons & Complaint: (A) The name of the owner of the rental property; (B) The name of the person(s) authorized by the landlord to act on behalf of the landlord; (C) A copy of any written lease; (D) A copy of the notice to vacate.

FILING THE FORM: Submit the fees with the original form. The Clerk's office will process the form, keep the original, and mail the copies (if applicable), or return the copies to you for you to obtain personal service.

NOTE: You may now e-file forms when you register and submit a \$ 20.00 opt-in fee per case. For more information go to <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp>

SERVICE INFORMATION: If copies are returned to you for service arrangements (sheriff or process server), take **prompt** action to see that they are served. Evictions must be served no later than 5 business days before the court date. Other actions must be served no later than 8 business days before the court date. Weekends or holidays do not count as service days. The Clerk will forward copies for personal service to the Chippewa County Sheriff if a transmittal letter is provided.

FEE FOR FILING AND SERVICE

Filing fee is \$94.50 **plus** service fees. Payable to the Clerk of Courts.

Service fees are as follows - Some restrictions apply*

- 1) Regular Mail - \$2.00 per defendant
- 2) Certified Mail - \$8.00 per defendant
- 3) Personal Service - The fee, payment and service arrangements are handled between you and the sheriff's department or process server.
- 4) Published Service - If after several tries, it is impossible to obtain personal service or the mailed papers are returned to the Clerk unopened, service may be made by publication as a last resort.

***Service Restrictions:**

If the defendant lives out of county, there must be personal service.

Replevin actions are limited to certified mail or personal service.

Eviction actions are limited to personal service.

RETURN COURT DATE

The Clerk will insert the court date on the Summons & Complaint when you file. **You must make an appearance at this return date.** Cases are heard in one of the second floor courtrooms. Signs will be posted as to which courtroom is being used that day. Upon your arrival, you must check in with the Clerk seated at the front of the room. If you fail to appear, your case will be dismissed. Do not bring witnesses with you on the return date.

The purpose of the return date is to determine whether the claim is contested. If the claim is not contested, a default judgment may be granted. If the claim is contested, a pre-trial conference will be held that day with the Court Commissioner to try to resolve the case. If an agreement cannot be reached, a trial date will be set. If the contested case is an eviction action, a circuit court judge will hold an eviction hearing that afternoon.

If the Court issues a judgment in your favor, you should have that judgment docketed. The fee is \$5.00. A docketed judgment becomes a lien on real estate owned by the debtor in that county for 10 years.

STIPULATION AND ORDER FOR DISMISSAL FORMS

If an agreement is reached between the parties a Stipulation form can be utilized to put the agreement in writing, record the terms of the agreement and dismiss the action. These may be filed before the Return Date hearing for the Court's signature.

In eviction actions, an appearance is required. A stipulated dismissal will be accepted and approved **only** if both parties agree to the terms and conditions of the stipulation in front of the Small Claims Court Commissioner or Circuit Court Judge.

DECLARATION OF NONMILITARY SERVICE FORMS

To provide the Court with the defendant's current military status as required by the Servicemembers Civil Relief Act, a Declaration of Nonmilitary Service form must be completed and filed on or before the Return Date Hearing.

SATISFACTION OF JUDGMENT FORMS

When the judgment has been paid, it is your responsibility to provide the debtor with a signed **Satisfaction of Judgment**. In order to clear the judgment, the debtor will need to file the signed Satisfaction with the Clerk of Courts, along with a \$5 fee.