STATE OF WISCONSIN CIRCUIT COURT PORTAGE COUNTY

IN RE AMENDMENT OF CIRCUIT COURT RULES

SMALL CLAIMS COURT

The Circuit Court rules of Portage County are hereby amended and as amended adopted by all branches of the Circuit Court for Portage County, subject to further orders of the Court, to wit:

1. Except in eviction actions, the service of a summons upon any resident of Portage County and all other actions under Chapter 799 Wis. Stats. may be by mail, pursuant to Sec. 799.12(3) Wis. Stats., or may be made personal or substituted service pursuant to Sec. 801.11 Wis. Stats.
2. All plaintiffs and defendants shall appear in person or by counsel at all initial return, joinder and pretrial hearings. If a defendant is a non-resident of the state of Wisconsin at commencement of the action, s/he may permitted to join issue in any action specified in Sec. 799.01 Wis. Stats. without personally appearing on the return date provided that s/he file a written answer with the clerk of court with a copy to the plaintiff provided such answer is received and file by the clerk prior to the return date.
3. The complaint in all actions commenced by service of process outside of Portage County shall contain allegations justifying venue in Portage County.
4. All parties shall be prepared to try all issues at the initial return hearing, with the exception of those actions referenced in subsection 5 below, initial returns on all other small claims matters shall be conducted before the Circuit Court Commissioner pursusant to Sec. 799.207 Wis. Stats. No stenographic reporting of proceedings held before the Court Commisseiron will be made. Rather, the clerk shall record as minutes in each such proceeding the time and location of the hearing, the identity of all the parties, witnesses, and attorneys appearing and shall indicate therein the decision reached by the Court Commissioner.

5. In eviction, garnishment or replevin actions in which a party appearing at the initial return claims that a contest or dispute exists, such matter shall be scheduled for a hearing before the Circuit Court and, in the case of an eviction action, not more than thirty (30) days after the initial return hearing.
6. Any party has an absolute right to demand a trial to the Circuit Court of any matter heard and decided by the Court Commissioner such party files a written demand for trial with the clerk of court with ten (10) days from the date of the Court Commissioner's oral decision or within fifteen (15) days from the date of mailing of a written decision of the Court Commissioner. Accept for default judgments entered by the Court Commissioner which shall immediate affect, the Circuit Court Commissioner's decision shall become a judgment eleven (11) days after rendering if oral and sixteen (16) days after mailing if written in the event neither party files a demand for trial to the Circuit Court.
7. At conclusion of any matter heard and decided by the Court Commissioner, the Court Commissioner shall give each of the parties a form and instructions which shall be used for giving notice of a demand for trial before the Circuit Court. Timely filing of a demand for trial before the Circuit Court pursuant to No. 6 above shall result in a new trial before the Circuit Court on all issues between the parties.
8. Any order to show cause served upon a judgment-debtor seeking contempt for failure to comply with an order requiring disclosure of assets pursuant to Sec. 799.26 Wis. Stats. shall be personally served upon such judgment-debtor unless otherwise permitted or directed by the Circuit Court.
9. Actions for money judgment based upon accounts for materials or services or actions for money judgment or replevin based upon a note may be scheduled for a fast track procedure in the event the plaintiff expects the matter to default. The plaintiff shall identify the case as such by placing the letters '**FT**' on the summons in the location provided for the case file number. All cases so identified shall be scheduled at a separate time on the next available initial return date. Cases will be grouped and called in order by plaintiff's attorney or plaintiff.
10. Cases which the plaintiff does not expect to default should not be identified for fast track appearance. Continuing abuse or failure to comply may result in termination of

the fast track procedure or an order barring its use by any individual plaintiff or attorney.

11. The plaintiff in all eviction actions filed in the Small Claims Court shall have prepared and ready for filing with the clerk on the return date scheduled in the action the following information: (a) proof of service of the complaint upon the defendant (b) copy of lease signed by defendant (c) written summary of rent received under the terms of said lease, the amount received and the dates received, (d) written summary explaining money damages sought and, (e) copies of all notices terminating tenancy and proof of service of such notices.
12. In any small claims action in which the plaintiff alleges a claim of defective construction or remodeling of his/her dwelling pursuant to a written or oral agreement with a party who performed construction services and/or supplied construction materials relating to a residential dwelling or any existing structure at the plaintiff's resident premises (including work relating to driveways, sidewalks, swimming pools, terraces, patios, fences, porches, garages or basements) the plaintiff shall affirmatively allege in his/her complaint whether s/he has complied with all provisions of Sec. 895.07 Wis. Stats.
13. The plaintiff shall attach as exhibits to his/her complaint those notices, offers and proposals made by the plaintiff to the defendant and copies of all offers and proposals received from the defendant as required in Sec. 895.07(2) Wis. Stats.; that failure to comply with the provisions of Sec. 895.07 Wis. Stats. as required in this Order shall result in dismissal of the action without prejudice or entry of an order staying the proceedings pending compliance pursuant to Sec. 895.07(3) Wis. Stats.

Dated and signed at Stevens Point, Wisconsin, this 11 day of May, 2017.

BY THE COURTS:

Thomas B Eagon
Circuit Judge – Branch 1

Dated and signed at Stevens Point, Wisconsin, this 8TH day of May, 2017.

Robert J Shannon
Circuit Judge – Branch 2

Dated and signed at Stevens Point, Wisconsin, this 11 day of May, 2017.

Thomas T Flugaur
Circuit Judge – Branch 3

Approved this 12 day of May, 2017.

Honorable Gregory Potter, Chief Judge
Sixth Jud. Admin. District