

Legal Notes: May 2017

Back to my legal first aid series after a detour to explain what the April Fools were doing down in Madison last month. I fear that I may need to return to that topic in the future. This month: Small Claims.

In theory, small claims court was set up to allow individuals to represent themselves in small dollar cases. The process was streamlined and simplified to avoid the need for attorneys. In reality, creditors, mainly the local credit collection agencies, use small claims court against individuals for unpaid medical expenses and credit card bills. Be that as it may be, individual citizens can still take advantage of the small claims court process.

You start by filing a small claims case at the clerk of court's office (first floor of the courthouse here in La Crosse). The clerk's office has the form or you can find it online. There is a filing fee, so bring your credit card.

A few points in completing the form. The dollar demand has to be under \$10,000. It is better to estimate high than low, if you don't have a specific dollar figure. In the box on the form, you can make a short (very short) statement of the facts. If you need additional space, attach a sheet (one should do in most cases). This statement is not meant to explain your entire case, just give some important facts. Be sure to have an accurate address of the defendant. The clerk's office, in most but not all cases, will send the complaint to that address, and the clerk's office will not go to any great lengths to make sure the address is correct. If the complaint comes back because of a bad address, it will need to be sent out again, causing delays. Finally, the complaint needs to be notarized, so don't sign until you are in front of a notary or back at the clerk's office (the clerks are notaries).

After filing, you will need to appear at an initial appearance. In La Crosse County, those appearances are every Friday morning at 9 a.m. You, as plaintiff, must be there in person. You can't send someone (other than a lawyer) in your place. If the defendant shows up, and does not have a lawyer, you will need to engage in mediation. Be prepared to spend some time in the courthouse waiting for mediation. You can sign up for a later mediation date if the defendant agrees. The mediator will try to settle the case. In most cases, settlement means payment and acceptance of a dollar amount, so be ready with a compromise position. While you may believe your case is rock solid

and you don't need to compromise, think again. You don't need any witnesses at mediation, but be prepared to discuss what your witnesses may testify to. Also, have a single sheet breakdown of the dollar damages.

If the case does not settle, then a trial will be set at some later time. At this point you may need an attorney, or at least consult with one on how best to prepare for a trial.