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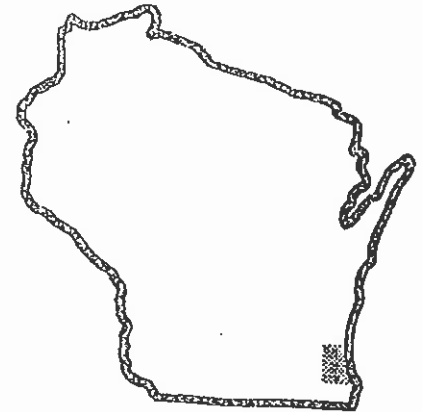
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STATE OF WISCONSIN

FIRST JUDICIAL DISTRICT

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CHIEF JUDGE DIRECTIVE 15-08

DATE: May 1, 2015

TO: All Judges, All Court Commissioners, District Court Administrator, Deputy District Court Administrator, County Executive, Clerk of Circuit Court, Corporation Counsel, Sheriff, District Attorney, City Attorney, Public Defender, DAS Fiscal Affairs, Court Coordinators, Managing Court Reporter, JusticePoint, WCS, Legal Resource Center, Facilities Management, Press

FROM: Chief Judge Jeffrey A. Kremers

RE: REVISION OF LOCAL RULES

Wis. Stat. § 753.35(1), SCR 70.19(3), SCR 70.21(15e) and SCR 70.34 vests authority in the Chief Judge to prescribe local rules governing practices in the circuit court. Pursuant to this authority, the local rules are revised as follows:


IT IS HEREBY DIRECTED that, effective immediately, Local Rules 3.85, concerning Stipulations to Dismiss the First Cause of Action in Eviction Cases, a copy of which is attached to this directive, is adopted.

IT IS FURTHER DIRECTED that, these rules shall be filed with the Clerk of Circuit Court.

IT IS FURTHER DIRECTED that, the Clerk of Circuit Court shall send a copy of these rules to the secretary of the Milwaukee Bar Association, the District Court Administrator for the First Judicial District, the State Bar of Wisconsin, the state law library, and the office of the Director of State Courts.

IT IS FURTHER ORDERED that, these rules and the appendices referenced in the rules shall be published on the Chief Judge page of the Milwaukee County website and on the website of the State Bar of Wisconsin.

Dated at Milwaukee, Wisconsin, this 1st day of May, 2015.



Jeffrey A. Kremers
Chief Judge

JAK: dla
Attachments (1)

3.85 Stipulations to Dismiss the First Cause of Action In Eviction Cases

- A. A landlord and tenant may agree that the landlord will dismiss the landlord's claim for eviction, which is also known as "the first cause of action," in exchange for the tenant's promise to pay certain sums to the landlord, usually consisting of overdue rent and court costs (such as the filing fee or the fee for serving the complaint on the tenant). Such agreements often are called "stipulations." This rule governs when such agreements (whether specifically denominated a "stipulation" or not) will be accepted and enforced by the court.
- B. All stipulations to dismiss a claim for eviction in exchange for payment of certain sums shall be in writing and signed by all parties.
- C. The stipulation expressly shall state a date certain on which the final payment is due.
- D. The payment period stated in the stipulation shall be no longer than reasonably necessary for the tenant to pay in full the total amount owed to the landlord. Once the final payment is made, the landlord no longer has the right to seek eviction without filing a new action.
- E. If the stipulation requires payment from the tenant for any anything other than past due rent or court costs, the stipulation shall specify what other obligations are being paid. The court shall not approve a stipulation requiring the payment of an obligation that is not enforceable under the lease or otherwise under the law.
- F. The court shall not approve a stipulation that is not signed by all parties in the presence of the court, except:
 - 1. A party may confirm in the presence of the court his or her signature applied to the stipulation outside the presence of the court.
 - 2. One party in the presence of the court may confirm the signature of another party who is not present in court by presenting an affidavit executed by the absent party that states:
 - a. that the absent party has reviewed the stipulation and understands its terms;
 - b. the landlord or landlord's agent reviewed the proposed stipulation with the absent party before the stipulation was signed, and the affidavit shall name the person who reviewed the stipulation with the absent party;
 - c. that the absent party agrees that he or she owes the amount which he or she agrees to pay;

- d. that the absent party is entering the stipulation freely and voluntarily; and
 - e. an acceptable reason for the party's absence from court; reasons that may be presumed acceptable include employment, education and medical issues, but the court shall determine whether to accept any reason.
- G. If a stipulation is entered in the presence of the court, or confirmed in the presence of the court by each party, and if the landlord presents to the court an affidavit demonstrating to the satisfaction of the court that the tenant has failed to make any of the first three payments due under the stipulation, the court promptly shall issue a writ of restitution. The landlord is not required to give notice to the tenant before seeking a writ of restitution under this subsection of the rule.
- H. In circumstances other than those described in the previous subsection of the rule, notice to the tenant is required before the court may issue a writ of restitution.
1. Notice is required if the landlord does not seek a writ of restitution before the fourth or subsequent payment becomes due according to the terms of the stipulation.
 2. Notice is required if the stipulation is not entered in the presence of the court or confirmed in the presence of the court by each party, no matter how many timely payments the tenant may have made or failed to make.
 3. The notice required by this rule shall consist of a letter identifying the overdue payment, by amount and due date, and stating in plain terms in a language understood by the tenant the landlord's intention to ask the court to issue a writ of restitution.
 4. The notice required by this rule shall be served on the tenant by certified and First Class mail. The landlord shall file proof of mailing by certified mail and an affidavit certifying that notice also was served by First Class mail.
 5. If the court is persuaded to issue a writ of restitution under this subsection of the rule, the court shall issue a writ promptly after seven calendar days after the date of mailing. If the notice sent by certified mail is sent on a date other than the date on which notice was sent by First Class mail, the writ shall be issued promptly after seven calendar days after the latter date of mailing.