

1977 Senate Bill 467

Date published: May 16, 1978

CHAPTER 345, Laws of 1977

AN ACT to renumber 299.21 (3) (b); to renumber and amend 757.68 (1); to amend 299.03, 299.04 (2), 299.06 (1), 299.21 (3) (a) and 299.24 (1); and to create 299.05 (7), 299.06 (3), 299.09, 299.206, 299.207, 299.21 (3) (b), 757.68 (1) (b), 757.695 and 911.01 (4) (d) of the statutes, relating to the powers of court commissioners in populous counties and changes in procedures of small claims type actions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 299.03 of the statutes is amended to read:

299.03 Intent. Sections 299.01 and 299.02 are procedural and not jurisdictional. ~~Unless otherwise designated wherever the word "court" is used herein it~~ In this chapter unless otherwise designated, "court" means county court and "court" does not mean court commissioner.

SECTION 2. 299.04 (2) of the statutes is amended to read:

299.04 (2) FORMS. Except as otherwise provided in this subsection and this chapter, the forms specified in Title XLIIA shall be used. Forms shall be uniform, concisely written and readily understandable by members of the public. Summons and complaint forms shall be made available to the public by the clerk of court and, in counties having a population of 500,000 or more, the summons shall have all provisions printed in both English and Spanish.

SECTION 3. 299.05 (7) of the statutes is created to read:

299.05 (7) FORM; POPULOUS COUNTIES. In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), the summons shall be substantially in the following form:

STATE OF WISCONSIN : COUNTY COURT : COUNTY

A. B., Plaintiff,

vs.

S U M M O N S
(Small Claims)

C. D., Defendant.

THE STATE OF WISCONSIN, To said defendant:

You are being sued for: Eviction
 Return of Property
 \$

If you wish to dispute this matter, you must then be in Room, of the [County] County Courthouse, [address], [City], Wisconsin before o'clockm., on, 19..... If you do not appear, a judgment may be given to the person suing you for what the person is asking.

You are encouraged to bring with you all papers and documents relating to this matter, but there is no need to bring witnesses at this time.

Dated at [County], Wisconsin, this day of , 19....

.....
PLAINTIFF'S ATTORNEY or PLAINTIFF

.....
ADDRESS

E. F.

....

Clerk of County Court
or

PHONE

.....
G. H.

....

Plaintiff or Plaintiff's Attorney

SECTION 4. 299.06 (1) of the statutes is amended to read:

299.06 (1) PLEADINGS. Except as provided in s. 299.41 with respect to complaints in eviction actions and except as provided in sub. (3), pleadings may be oral ~~or written and need not be verified~~. Any county court may by order ~~or rule~~ require written pleadings in a particular ~~or all cases~~ case.

SECTION 5. 299.06 (3) of the statutes is created to read:

299.06 (3) In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), the complaint shall be in writing and shall be substantially in the following form:

STATE OF WISCONSIN : COUNTY COURT: COUNTY

A. B., Plaintiff,
Address:

vs.

C O M P L A I N T

C. D., Defendant.
Address:

For Plaintiff's claim against Defendant, Plaintiff states that:

1. Plaintiff's injuries or losses occurred on or about [month and day], 19... [year], and under the following circumstances (briefly state the facts of your claim):

.....
.....
.....

2. Wherefore, Plaintiff demands judgment for: (check as appropriate)

- a. Eviction.
- b. Return of property.
- c. The sum of \$ [enter amount].

Plus attorney fees, if any, costs of this suit and such other relief, as the court deems proper.

Signed:

PLAINTIFF OR PLAINTIFF'S
ATTORNEY

Address:

SECTION 6. 299.09 of the statutes is created to read:

299.09 Night or Saturday sessions; public information. (1) In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), the court commissioner shall schedule at least one evening or Saturday session per month for small claims type actions.

(2) Information regarding the existence, location and hours of the county court's small claims system shall be disseminated and publicized throughout the county by the clerk of court.

SECTION 7. 299.206 and 299.207 of the statutes are created to read:

299.206 Populous counties; court commissioner. (1) In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), all actions and proceedings commenced under this chapter shall be returnable before a court commissioner appointed under s. 757.68.

(2) Judgment on failure to appear may be entered by the court commissioner or the clerk upon the return date as provided in s. 299.22.

(3) When all parties appear in person or by their attorneys on the return date in an eviction action and a contest exists, the parties or their attorneys or both shall be ordered to appear forthwith before the calendar judge for a hearing.

(4) Except as provided in sub. (3), the court commissioner shall hear all matters using the procedures set forth in s. 299.207.

299.207 Populous counties; procedure. (1) (a) The court commissioner shall hold a conference with the parties or their attorneys or both on the return date, examine pleadings and identify issues.

(b) Except as provided in par. (e), a decision shall be rendered by the court commissioner on the return date if there is time available for a hearing, the parties do not intend to call witnesses, and the parties agree to such a hearing. If for any of the reasons stated in this paragraph, the matter cannot be heard on the return date, an adjourned date shall be set.

(c) The court commissioner may consider all relevant information and the proceedings shall not be governed by the rules of evidence.

(d) A record of the proceeding shall be made and shall be limited to the time and location of the hearing, the parties, witnesses and attorneys present and the decision.

(e) If the court commissioner cannot reach a decision on the return or adjourned date, the commissioner shall mail the decision to each party within 30 days of the date of the hearing.

(2) The court commissioner's decision shall become a judgment 11 days after rendering, if oral, and 16 days after mailing, if written, except that:

(a) Default judgments will have immediate effect.

(b) Either party may file a demand for trial within 10 days from the date of an oral decision or 15 days from the date of mailing of a written decision to prevent the entry of the judgment.

(3) (a) There is an absolute right to have the matter heard before the court if the requirements of this section are complied with.

(b) The court commissioner shall give each of the parties a form and instructions which shall be used for giving notice of an election to have the matter heard by the court.

(c) The demand for trial must be filed with the court and mailed to the other parties within 10 days from the date of an oral decision or 15 days from the date of mailing of a written decision. Mailing of the notice and proof of such mailing is the responsibility of the party seeking review.

(d) Notice of a demand for trial may also be given in writing and filed by either of the parties at the time of an oral decision.

(4) Following the timely filing of a demand for trial, the court shall mail a trial date to all of the parties.

(5) (a) A timely filing of a demand for trial shall result in a trial de novo before the court.

(b) The court shall conduct a pretrial conference on the same day the matter is scheduled for trial.

SECTION 8. 299.21 (3) (a) of the statutes is amended to read:

299.21 (3) (a) Any party may, upon payment of the fees specified in par. ~~(b)~~ (c), file a written demand for trial by jury. If no party demands a trial by jury, the right to trial by jury is waived forever. In eviction actions, such the demand shall be filed at or before the time of joinder of issue; in all other actions within 20 days thereafter.

SECTION 9. 299.21 (3) (b) of the statutes is renumbered 299.21 (3) (c).

SECTION 10. 299.21 (3) (b) of the statutes is created to read:

299.21 (3) (b) In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), except in eviction actions which shall be governed by par. (a), demand for trial by jury shall be made at the time a demand for trial is filed. If the party requesting a trial does not request a jury trial, any other party may request a jury trial by filing such request with the court and mailing copies to all other parties within 15 days from the date of mailing of the demand for trial or the date on which personal notice of demand is given, whichever is applicable. If no party demands a trial by jury, the right to trial by jury is waived forever. The fees specified in par. (c) shall be paid when the demand for a trial by jury is filed.

SECTION 11. 299.24 (1) of the statutes is amended to read:

299.24 (1) ENTRY OF JUDGMENT OR ORDER; NOTICE OF ENTRY THEREOF. When a judgment or an order is rendered, the judge, court commissioner or clerk shall immediately enter it in the case docket and note the date thereof which shall be the date of entry of judgment or order. The clerk, except in municipal and county forfeiture actions, shall mail a notice of entry of judgment to the parties or their attorneys at their ~~last known~~ last-known address within 3 days of its entry. Any such judgment shall be a docketed judgment for all purposes upon payment of a fee of 50 cents to the clerk. The clerk shall enter such docketed judgment in an appropriate judgment docket book.

SECTION 12. 757.68 (1) of the statutes, as affected by chapter 187, laws of 1977, is renumbered 757.68 (1) (a) and amended to read:

757.68 (1) (a) ~~In~~ Except as provided in par. (b), in counties having [a] population of ~~500,000~~ 100,000 or more, there ~~is~~ may be created in the classified service the office of ~~judicial~~ full-time court commissioner. The county board shall establish the number of positions and set the salary for the office. Any person qualified and acting as a judicial court commissioner on the effective date of this act (1977) shall be deemed a full-time court commissioner and shall continue in the classified county civil service but any new appointee shall be in the unclassified (exempt) civil service. ~~The chairman of the county board of judges~~ chief judge shall be the appointing power and supervising authority and shall assign and supervise the work of such commissioners who shall be members of the bar residing in such county may terminate the employment of any such commissioner if

cause is proven. Such full-time court commissioners shall be attorneys licensed to practice in this state. Each judicial court commissioner shall take and file the official oath in the office of the clerk of the circuit court of the county for which appointed before performing any duty of the office.

SECTION 13. 757.68 (1) (b) of the statutes is created to read:

757.68 (1) (b) In counties having a population of 500,000 or more, the county board shall establish at least one full-time court commissioner position under par. (a) to assist in the administration of the procedures for small claims type actions under ch. 299. In counties having a population of 100,000 or more but less than 500,000, the county board may establish one or more part-time or full-time court commissioner positions under par. (a) to assist in the administration of small claims type actions under ch. 299. Any court commissioner appointed under this paragraph shall be an attorney licensed to practice in this state.

SECTION 14. 757.695 of the statutes is created to read:

757.695 Court commissioners; small claims matters. If a court commissioner has been appointed under s. 757.68 (1) (b) to assist in the administration of small claims matters, the commissioner shall conduct the hearings and proceedings as prescribed by ch. 299 and shall have the following additional duties and authority:

- (1) Grant and enter default judgments and approve stipulations.
- (2) Conduct conferences and hearings with the parties or their attorneys or both on the return dates and adjourned dates, if any.
- (3) Issue decisions in matters that come before the commissioner. The decisions shall become judgments under s. 299.207 (2).

SECTION 16. 911.01 (4) (d) of the statutes is created to read:

911.01 (4) (d) *Small claims actions.* In hearings before the judicial court commissioner under s. 299.207, the proceedings shall not be governed by the rules of evidence.

SECTION 17. **Effective date.** This act shall take effect August 1, 1978.
