**Milwaukee Bar Association**

**Minutes from Friday, July 14, 2023 Meeting of Small Claims Bench/Bar Committee**

**1. Welcome**

Katy Borowski welcomed everyone to the Small Claims Bench/Bar Committee meeting. She introduced the members of the Small Claim Bench/Bar Advisory Board.

**2. Report from the Court**

Judge Davis and Judge Pocan provided an update from the court.

**Return to the Courthouse:** Judge Pocan advised the group about the court’s plans to return Small Claims to in person hearings at the courthouse starting August 14th.

Clerks would be sending out notices advising litigants that their hearing would be in person and of the times. Judge Pocan indicated the times would be:

8:30 am – Adjourned collections matters

9:30 am – Initial Return Dates on collections matters

10 am – Contempt Hearings

10-11 am – Walk-in Hearings on Motions to Reopen

1:30 pm – Eviction Return Dates

2:30 pm – Adjourned Eviction Return Dates

2:30 pm – Non-compliance Hearings

3 pm – 2nd/3rd Cause of Action Initial / Adjourned Hearings

Limited Ability to appear by Zoom - Judge Pocan indicated that the clerk will be very liberal about allowing Zoom appearances for those who call in and cannot personally appear – such as if they are ill, having car problems, or will lose their job if they leave. That said, he indicated that the courts will NOT promote Zoom appearances due to concerns about lack of staffing for hybrid appearances.

Court notices regarding the in-person hearings will include the number for the clerk’s office for those with problems or questions. But, the notices will NOT include language about any option for Zoom appearances.

Cases will Continue to Be Assigned to an SCC: Unlike Pre-Covid small claims where cases were picked up by Commissioners based on availability, the court is going to continue to assign cases to a specific courtroom (SCC1, 2 and 3). SCC4 will continue to hear contested hearings. Judge Pocan indicated that the clerk’s office will try to keep attorney cases with the same SCC to avoid having to be in too many courtrooms. It was acknowledged that while that may work for plaintiff attorneys’ initial filings, it may still be a problem for defense attorneys and others who get added to cases after they are assigned to a courtroom.

Room 400: Anna Hodges indicated that when court moves in person, there will be clerks at the front of Room 400 to direct people/litigants where to go.

**Motions to Seal**: Judge Davis reported on the Small Claims Working Group looking at more efficiently handling seal cases. Megan Winn and the work group are drafting new forms to allow certain uncontested motions to seal/redact to be done without a court hearing. It is expected that they will report on the progress at the next meeting.

**Thank you from Judge Davis**: Judge Davis thanked everyone for their hard work and professionalism. She thanked the MBA and Katy Borowski for their work organizing the Bench/Bar meetings and helping to facilitate collaboration between the bench and bar. She thanked the Milwaukee Justice Center, the Commissioners, the Clerk and the attorneys.

Judge Davis was thanked for her work in Small Claims for the past year.

 **3. Concerns/Issues/Questions from the bar**
Issue Raised: Eviction Forms - \*There was a recent decision about the pleadings required for evictions (*Berrada Properties 66 LLC v Chakari Lathan*). Do the current forms need to be updated?

Judge Davis reviewed this concern and indicated her belief that the current forms were generally sufficient. The biggest concern was the plaintiffs who did not use or fill in the information requested in the forms. She noted that the current form does not seek the type/duration of the tenancy. Mary Lynn Ferwerda stated she will take this issue to the committee looking at forms. She will discuss with that group whether to add language to seek information as to the nature/duration of the tenancy.

Atty. Nick Toman asked about the current language indicating that the plaintiff is the owner of the property. He noted that Plaintiff’s checked this box even when they were not the owner and suggested that there be another option/s. The group discussed concerns and possible confusion about who could commence an action versus who must be named as plaintiff in the action, etc. No consensus was reached as to whether any change was needed or what a good change would be.

\*\*This issue was unresolved and should be added to the next meeting’s agenda for an update.

Issue Raised: Expiration of Fee Waiver - \*The Milwaukee County courthouse has a current practice that the Order on the petition for wavier of fees and cost for indigent clients expires after 30 days. This expiration date is not listed on the forms (CV 410), is not in the local rules or statute, and inconsistent with the policy / practice of other counties. This was causing problems for pro se litigants and their attorneys because certain requests/filings were not being processed and litigants were not unable to contest or pay fees on-line.

Anna Hodges stated she was aware of the long-standing policy but did not know the history of when or why it was enacted. She stated came from the Chief Judge’s office - it was not a policy of the clerk’s office as they don’t decide fee waivers. She stated she would reach out to the Chief Judge to determine whether he wanted to continue that policy or reconsider it. She also suggested that if anyone was having issues, they should call the clerk’s office directly to try to resolve the matter over the telephone.

\*\*This issue was unresolved and should be added to the next meeting’s agenda for an update.

Issue Raised: Delay in Judgment - \*There is still a very long lag time between commissioner granting judgement and it getting entered.

Anna Hodges reported that her office is aware of these concerns and has been taking steps to address this issue. She mentioned that two new people were hired and are working on the backlog. More personnel was assigned, and she believes the delay is being resolved. She asked the group to let her know if the problem persists or if other issues are noticed.

Issue Raised: Small Claims Handbook – Can the Small Claims Handbook be made available to the attorneys and will it be revised?

Judges Davis and Pocan indicated that they did not know if the handbook was an internal manual (not for the public) or whether it could/should be shared. Judge Davis indicated that she would look into the matter and let the group know what she found.

\*\*This issue should be added to the next meeting’s agenda for an update.

4. Next meeting: September 15 @ 12:15

Katy Borowski thanked everyone and invited everyone to the next meeting, currently scheduled for September 15, 2023 at 12:15 pm. She asked that if anyone had an agenda item, they reach out to her or to one of the members of the Advisory Board, which includes:
Joe Johnson: josephj@kohnlaw.com
Jill Kastner: jxk@legalaction.org
Dustin McMahan: dustin@markofflaw.com
Patricia Morrow: pattimorrow52@gmail.com
Nick Toman: ntoman@lasmilwaukee.com

The meeting was adjourned.