



August 17, 2022

Clerk of Wisconsin Supreme Court

Attn: Deputy Clerk – Rules
PO Box 1688
Madison, WI 53701-1688

via email: clerk@wicourts.gov

Re: Rule Petition 22-03, In re Amendment to SCRs 72.01 (8), 72.01 (9), and 72.02 (10), Relating to Retention of Records in Eviction Cases

Dear Clerk:

Below please find the comments of Wisconsin Judicare, Inc., dba Judicare Legal Aid, to Rule Petition 22-03, which seeks to shorten the retention period for eviction cases in which no money judgment is entered. Judicare Legal Aid is a non-profit legal aid law firm providing free legal assistance to low-income clients in Wisconsin's northern 33 counties, as well as Native Americans statewide. Our firm prioritizes helping Wisconsinites become and remain safely and stably housed. We believe that housing security for individuals and families promotes greater stability throughout the community, in school and job attendance and in greater access to and participation in social services. We support the Petition's goals of decreasing the detrimental and disparate impacts of eviction filings and judgments.

Like Legal Action of Wisconsin, Judicare Legal Aid witnesses the real harms that befall people who have had an eviction filed against them, even when the eviction is successfully defended or mediated to a conclusion. The filing alone,

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information readily available by way of a simple name search on CCAP, can be used to deny housing to an otherwise qualified applicant.

Moreover, many of our clients who live in unsubsidized housing in the private rental market are in month-to-month leases. It is very common for these clients to seek legal assistance when their landlords decide to not renew their tenancy. We hear on a near daily basis from people who tell us that they are good tenants – clean, quiet, never late on rent. These same people tell us, often correctly, that 28 days’ notice is not sufficient time to find a new unit that they can afford. If Judicare is unsuccessful in negotiating a longer pre-termination period with the landlord, those clients are forced to make the choice between holding over in their tenancy or homelessness. For those who choose to holdover, they may have an eviction filed and judgment entered against them. The eviction will be read by a prospective landlord as a sign that these people are not quality tenants, even though such conclusion is inaccurate.

As noted by Legal Action of Wisconsin in their memorandum in support of the rule change petition, the public policy in favor of open records has little applicability to simple contract actions between private individuals or entities. It has even less applicability to actions where the only breach complained of is a failure to vacate at the end of a rental period. In those cases, the breach does not occur during the course of the contract, which can last for multiple years, but only after the contract expires, and only because the tight rental housing market forces the breach.

The State of Wisconsin 2020-2024 Consolidated Plan Needs Assessment finds that the combination of low income and a low supply of safe, sanitary housing makes it difficult for low-income Wisconsinites to stay safely housed while meeting basic needs. The Consolidated Plan also points out that if a household has faced an eviction, they may have a difficult time finding a new landlord to rent to them, creating a cycle of housing instability. In Judicare Legal

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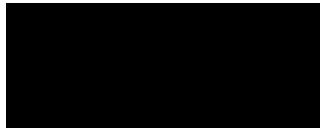


Aid's service area the demand for affordable rental housing far exceeds the supply. While the proposed rule change would not affect the broken housing market, it could remove an unnecessary barrier to future housing stability.

For the sake of greater clarity, Judicare Legal Aid suggests that the proposed wording of SCR 72.01(8)(b), SCR 72.01(9)(b) and SCR 72.01(10)(b) be amended slightly to read, "2 years from date of entry of judgment for small claims cases, ***other than evictions covered by sub (a), ...***" This is merely to remove any confusion that might arise from the fact that evictions are a sub-group of small claims actions.

Judicare Legal Aid is grateful to be given the opportunity to comment on these proposed rules changes, and fully supports their implementation.

Respectfully Submitted,



Kristin M. Slonski
Director of Advocacy and Legal Services
Judicare Legal Aid