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August 2022

Clerk of the Supreme Court
P.O. Box 1688
110 East Main Street, Suite 215
Madison, WI 53701

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

Dear Honorable Wisconsin Supreme Court Justices:

Please accept this letter from the Milwaukee Justice Center **in support of Rule Petition 22-03** filed by Attorney Korey C. Lundin on behalf of Legal Action of Wisconsin. Approval of this petition would change the lives of families seeking safe and affordable housing after overcoming challenging circumstances.

As Attorney Lundin noted in the petition, of the roughly 17,000 eviction cases filed statewide in 2021, less than 10% resulted in a judgment of eviction. (p. 9-10). Common examples of cases filed as evictions but not resulting in a judgment include when a landlord uses an eviction filing as a motivator for tenants to move or pay rent, when a landlord files a case incorrectly or prematurely, or when a landlord simply no longer wishes to pursue the case. Other examples stem from tenants who, without knowledge of the law and facing habitability issues with a lack of response from the landlord, have used non-payment of rent in an attempt to negotiate, with the common result of being served with notices to move and small claims eviction summons. In these instances, a 20-year record is extremely damaging to tenants and is not representative of the factual situation.

On this point, the MJC wanted to share anecdotal stories of people who exemplify this predicament and who have sought help at the MJC. And, the reality is, it was impossible for us to identify just a *single* occurrence. There is not an isolated instance that stands out because the questions—about eviction “expungement” (yes, used inappropriately, but we understand what people mean), about how to tell a prospective landlord that their eviction case “wasn’t an eviction”, or about referrals for places that would accept someone with an eviction record if “they just understood what happened was not a real eviction”—are just that frequent at our front desk.

The Milwaukee Justice Center is a public-private collaboration between the **Milwaukee County Clerk of Courts, the Milwaukee Bar Association, and Marquette University Law School** to provide volunteer-based, free civil legal aid to our Milwaukee County neighbors.

Additionally, in Milwaukee County, the small claims court dockets are large and always extremely full. Currently, the small claims judge hears between 12-15 motions to seal per day and is scheduling 4 months out, accounting for nearly 1,000 pending motions to seal. With the adoption of the proposed rule changes, the need for tenants to seal their records will decrease, thereby reducing caseloads and contributing to increased access to justice, fairness, and improved judicial economy overall.

As you consider the arguments in front of you and assess the appropriate balance between the right to open records and the harm experienced by the two-decades retention policy now in place, we ask that the balance be tipped toward increasing the safety, health, and dignity of our Wisconsin neighbors, easing of judicial dockets, and improving the administration of justice. We ask that you adopt the proposed rules changes as outlined in the above referenced petition.

Respectfully,

s/ Mary L. Ferwerda

Mary L. Ferwerda
Executive Director
Milwaukee Justice Center