

Wisconsin Civil Process Group

www.wiscpg.com

August 20, 2009

9:00 am - Noon

Dane County Sheriff's Office

Lieutenant Rick Olig

Fond du Lac County Sheriff's Office

rick.olig@fdlco.wi.gov

(920) 929-3378

2009 Conference

- Location – Holiday Inn Hotel and Conference Center in Stevens Point
- September 30 & October 1, 2009
- Regular Breakfast – not continental
- Breakfast and Lunch in adjoining room
- Breaks every hour
- Break Out at 2:30 pm first day
 - 2 break outs
 - New personnel – review basics
 - “Veteran” personnel – advanced issues
 - Turn in questions/discussion items in the am

2009 Conference Continued

- More time spent on TRO's and Injunctions
- NO DOR Speaker....
- Better lunch set up
- We will have 80+ of the 120 rooms in the hotel, we are the Primary Event
- Topics still being worked on:
 - Basic Process review will be broken down through out the 2 days
 - TRO's
 - Satisfaction of Judgments (big issue)
 - Revised manual update
 - Current Issues

Breakfast Buffet

- **State Guideline Breakfast Buffet**
- *(Buffet Minimum of 30 People)*
- Scrambled Eggs
- Pancakes & Maple Syrup
- Seasoned Breakfast Potatoes
- *Your choice of one of the following:*
- Sausage or Bacon
- Whole Fresh Fruit
- Fresh Baked Muffins
- Assorted Bagels & Cream Cheese
- Coffee, Tea, Milk

Lunch Buffet

- ***Your Choice Buffet***
 - Soup du Chef
 - Sliced Turkey with option of Tuna Salad or Egg Salad
 - White, Rye, Whole Wheat Bread
 - Kosher Dill Wedges, Coleslaw, Potato Salad, Potato Chips
 - Coffee, Iced Tea or Milk
- ***State Guideline Soup And Salad Bar***
 - Mixed Field Greens, Diced Ham, Grated Carrots, Sliced Radishes, Sliced Mushrooms, Green Pepper Slices, Diced Tomatoes, Diced Onions, Grated Cheddar Cheese, Grated Swiss Cheese, Parmesan Cheese, Pasta Salad, Cottage Cheese, Choice Of 3 Dressings,
 - Soup, Crackers, Breadsticks or Dinner Rolls With Fresh Butter
 - Coffee, Iced Tea or Milk

Lunch Buffet Continued

- ***Italian Buffet***

- Tossed Garden Salad with House Dressings,
- Fettuccini, Bowtie, Spaghetti,
- Bolognese Sauce, Alfredo Sauce, Marinara Sauce,
- Breadsticks, Garlic Bread,
- Coffee, Iced Tea or Milk

- ***Mexican Fiesta***

- Build your own Taco Bar with option of Chicken or Beef,
- Salsa, Lettuce, Cheese, Tomatoes, Onions, Sour Cream
- Refried Beans and Rice
- Taco Chips & Salsa
- Coffee, Iced Tea or Milk

Manual Revision Committee

- 10 members
 - La Crosse Co
 - St Croix Co
 - Dane Co
 - Vilas Co
 - Fond du Lac Co
 - Dodge Co
 - Rock Co
 - Marathon Co
 - Pierce Co
- Final meeting was August 13th...sent to DOJ for review and approval. **“Should be ready for the Conference!”**

Issues and Questions

“Letter of Credit”

- Another "glitch" with the eviction of Country Kitchen. Instead of a Bond of Indemnity, River Valley Bank would like to issue a "Letter of Credit" for any claims that might arise with the eviction. (Sgt. determined the amount would be \$50,000.00.) Can I fax the Letter of Credit to you and see what you think about it? The bank officer seemed to be unclear as to how the bank should write the bond and asked for a sample. I told him generally, we received a bond from the bank when we were seizing property that was collateral for a loan and we would have a dollar amount along with the property description and identification number.
-
- He did make the letter good until December 2009 as I told him we may not know of any claims until after the eviction was completed. I do wonder what kind of hoops we would have to jump through to make a claim?

- How long can a person sue the Sheriff, or anyone, after the incident?
- Letter of credit good until December 2009
- Is that long enough?
- Will that Letter of credit defend the Sheriff?

Sheriff's Sale – Multiple Properties

- I have a few questions on foreclosure sales. I know we have covered this before, but I want to make sure I told them right. Attorney called and they have a judgment for 10 or so rental properties all under one case number. Not all properties are in our county. We can only sell the ones that are in our county, correct? Then, since each property will be sold separately do we need individual notices for each property or can they all be on one (all are in the same city)? Thanks for your help!

- 1: You can only sell properties within your county.
- 2: The notice can list all properties to be sold in your county but they have to be posted in each municipality, if they are all in the same city, then it does not matter.
- 3: At time of sale, if its 1 sale then all are sold together, one bid. If they want each sold separately, then they pay the sheriff sale fee for each individual property.

STATE OF WISCONSIN

CIRCUIT COURT

COLUMBIA COUNTY

Sovereign Bank,

Plaintiff,

NOTICE OF FORECLOSURE SALE

v.

Case No. 07-CV-162

Joseph W. Pavelsek, Margaret E. Pavelsek And
Mortgage Electronic Registration Systems, Inc.,
acting solely as nominee for New Day Financial, LLC,

Defendants.

PLEASE TAKE NOTICE that by virtue of a Judgment of foreclosure entered on August 14, 2008 in the amount of \$227,686.99, and pursuant to the Procedure for Foreclosure Sale entered September 15, 2008, the Sheriff will sell the described premises at public auction as follows:

TIME: July 27, 2009 at 9:30 a.m.

PLACE: At the Columbia County Administration Bldg., City of Portage,
Columbia County.

TERMS:

THIS SHERIFF SALE SHALL BE CONDUCTED AS A TWO-TIERED AUCTION. Pursuant to said Judgment, 10% of the successful bid must be paid to the sheriff at the sale in cash, cashier's check or certified funds, payable to the clerk of courts (personal checks cannot and will not be accepted). The balance of the successful bid must be paid to the clerk of courts in cash, cashier's check or certified funds no later than ten days after the court's confirmation of the sale or else the 10% down payment is forfeited to the plaintiff.

The property is sold 'as is' and subject to all liens and encumbrances.

1) The property shall first be offered for sheriff auction in three separate parcels in the order listed below. In the event the plaintiff's total indebtedness is completely satisfied, the bidding shall cease and the sheriff shall report which parcels were sold and which parcels were left unsold. In the event the plaintiff's total indebtedness is not completely satisfied, all bids shall be held in abeyance and the property shall be immediately re-sold by the sheriff in a secondary auction.

2) In the event of a secondary sheriff's auction, the ENTIRE PREMISES shall be offered for sale. Upon completion of bidding at the second auction, the sheriff shall accept the higher overall bid of either a) the aggregate total of the highest bids for each of the three separate parcels OR b) the highest bid for the entire premises. The auction garnering the lower overall bid shall be immediately VOID.

PROPERTY ADDRESS:

First Offering. Parcel I.: N7970 Henry Road, Portage, WI 53901 – Tax Key No.: 11012-612.C

First Offering. Parcel II.: N7970 Henry Road, Portage, WI 53901 – Tax Key No.: 11012-612.D

First Offering. Parcel III.: N7970 Henry Road, Portage, WI 53901 – Tax Key No.: 11012-612.E

Second Offering: N7970 Henry Road, Portage, WI 53901 - Tax Key Nos.: 11012-612.C, D & E

Self Storage Unit

- I have never had to actually have a landlord get a bonded mover to remove belongings from a rental unit before because they've always
- gotten out in time but now I do and have questions:
- The landlord needs a bonded mover but do they need a bond to cover the property as well?
Where do the belongings need to be stored?
When do the tenants have access to their belongings?

- We usually require the landlord to get a bond of indemnity to protect the sheriff, in the amount that equals the value of the property. If you use a mover, make sure they are Bonded....not just insured. If they mover is not bonded then the landlord needs a bond also.
-
- Once things are moved out and the place is turned over to the plaintiff, our work is done, we do not get involved in the warehousing etc. However if the question should arise, the landlord cannot hold the property for back rent that is owed, they can only hold the property for the moving costs, and subsequent storage
-
- The belongings need to be stored in a secure area, preferably within your county. The tenants have access to their property almost immediately....A letter has to be sent to the defendants telling them where there property is being held and who to contact to retrieve their property.

- Thought you might enjoy this picture. Our process server, “Ole” Olson, started working this morning at 8:00 AM and kept hearing a squeak. He thought it was coming from the air conditioning unit. When he stopped at the Osceola P.D. around noon, one of the P.D. officers said, “That’s no squeak.” So Ole took the squad to a nearby auto body shop. Here’s the picture of the guy at the body shop with what he found under Ole’s front fender. There were two of them—one of them took off running, the other one caught and had his picture taken.
- Ole told our Chief Deputy—“The next time you issue me a squad car, please make sure it doesn’t come with critters.”
- Ah, rural America, “ain’t” it grand??



OSCEOLA
AUTO BODY
COLLISION REPAIR & PAINTING

SHERIFF
POLK COUNTY



Private Sale vs Sheriff Sale

- We have a plaintiff that may be interested in using a private company to sell some equipment that we seized to satisfy a judgment. The issue being, the sale by someone other than the Sheriff's Dept. will probably get more money for the item, which in turn pays off more of the judgment for the plaintiff. Is it alright for them too use somebody other than the Sheriff's Dept. to sell items that are seized on an execution or does the law require the Sheriff's Dept. hold the sale? If the seized property in an execution does not sell, should the seized property be returned to the defendant and the judgment be returned unsatisfied or can the property be turned over to the plaintiff to satisfy the judgment?

- I am not sure what Dave's response is but I will give you my best answer....
- As for who holds the sale, if they want a private person to hold the sale, then a simple court order stating this would be sufficient. A judge would have to approve this since the statute says the Sheriff shall sell the property. We actually ran into this a year ago with some cattle and the judge just issued an order to have the sale conducted by Midwest Livestock Auctions on behalf of the Sheriff.
- As for anything that does not sell....it goes back to the original owner, unless you get a court order that says the items or property (specifically listed on the order) is to be turned over to the plaintiff.

Execution – Real Estate

- We also have an execution in which the plaintiff wants us to seize real estate to sell. The house in question currently has an existing mortgage. The person who the judgment is against is now divorced from his wife and the property is currently in both their names. The property is on the market to be sold. Can we seize this property for an execution and sell it? If we seize it do we have to notify both owners of the property and the mortgage company that the property is being sold on an execution? If real estate is seized for sale should we require a bond, the property in question is on the market for around 1 million? Same question as above for this real estate if property does not sell is the judgment returned unsatisfied and property returned to the defendant?

- As for the real estate, you can seize it and sell it however the first mortgage holder as well as any other registered liens out there prior to this one (check with the register of deeds) would be paid first. Plus keep in mind you are only selling the “Debtors interest” in the property. Therefore if John Doe is the Debtor and the property is listed in the names of John Doe and Jane Smith, then you can only sell John’s “interest” in the property. It sounds pretty messy...the best way I would proceed is to place a lien on the property and when it sells, the plaintiff gets paid or at least they get some of their money.
- As for a bond, we get a bond for anything that we seize, especially if there is a question as to ownership. With the real estate I would get a bond if we sell it (not just placing a lien). The sale would involve many others, therefore there might be a question about who has true ownership.

- Lt. I had a quick question. Are you aware of any problems with receiving a Writ of Execution from a Federal district court? I advised the attorney as long as it issued from a court and signed by the clerk of courts where it was issued it would be okay. I also advised them it must be directed to the sheriff and docketed in our county. I looked under SS. 815.04 and they state “any court.” I Appreciate your help,

- I believe you are correct.....any court...and a federal court would certainly be a court....
- It might sound unusual but I have heard of it happening before

Serve paper knowing time limits cannot be met??

- **Our court commissioner signed an Order to Show Cause, Summons, etc... to be served on an individual knowing that there is not enough time to serve the documents, and had stated such.**
-
- **Extenuating circumstances; petitioner is being deployed to Iraq.**
-
- **The attorney told us “it’s not for us (the Sheriff’s Department) to worry about it....” BUT I DO WORRY... especially when an attorney tells me not to worry!**
-
- **If the Court Commissioner tells us to serve documents – I do believe we must serve the documents --- but --- what responsibility do we have to the respondent, to the Sheriff’s Department, to the County --- knowingly serving a document wrong.**
-
- **Also, with ‘most’, the general public does not know laws regarding proper service.**
-
- **How does the Sheriff’s Department handle this paper? Do we tell the respondent? Help.....**

My Reply

- Serve the paper, or at least attempt to serve it
- When you send back the affidavit or certificate of service, I would make sure you put down who you served, when served etc AND I would make a notation that the paper was not served within the statutory time limits.
-
- Then you are signing a document that is accurate and no one can come back to you saying you lied on the certificate
-
- As far as telling the defendant, we cannot give advice so if he asks, tell him he may be right but that's an issue for the courts.....if he does not ask, then we just serve it and go on with our business.
-

Sheriff Sale Adjournments

- Gray & Associates have a SS set for May 26 and they called and stated they want to adjourn it for a week. I asked if that would give them enough time for publishing and for us to repost and he stated that if they adjourn for a week, there is no need for reposting or publishing. He stated that I would just have to announce at the original date of sale that it is adjourned. Is this correct?
- That is correct, postpone for a week is usually just an announcement at the original date of sale

Writ of Replevin – 3 day hold

- Lt, I had a quick question. When seizing a vehicle for a Writ of Replevin, is it necessary to hold on to the vehicle for three days to allow the defendant to come up with a counter bond? Or is it okay to immediately turn over the vehicle to the Plaintiff. Reading Statue they make mention of the counter bond but also state the property can be immediately turned over to the Plaintiff. I am not sure where I came up with the three days, but thought I read it somewhere. Any help would be greatly appreciated.
- I am not aware of any 3 day hold, we usually find the vehicle and contact the plaintiff and make arrangements to get the vehicle to the plaintiff right away. I will have to check in to the 3 days but honestly I have never heard of that before.

Sheriff's Sales

- Is there a limit on how many times it can be adjourned? Or is it the amount of time from start to sale?
- 815.31 (5) leads me to believe that the sale has to be done within 3 months. Do you agree? It has been adjourned for the 4th time but we are trying to get in before the 3 months run out.

815.31(5)

- 815.31(5)
(5) If at the time appointed for any such sale the sheriff considers it in the interest of all persons concerned, the sheriff may adjourn the sale from time to time, not exceeding in all 3 months. In case of such adjournment public notice thereof shall be given at the time and place fixed for the sale. If the adjournment shall be for more than one day further notice shall be given by posting or publishing the same, or both, as the time and circumstances may admit.

- Based on the statute:
- If this is postponed for MORE than 3 months, what has to happen?
 - Court Review?
 - New Publication for 6 weeks?
 - New posting?

What is required when a sale is adjourned?

- 815.31(5)
(5) If at the time appointed for any such sale the sheriff considers it in the interest of all persons concerned, the sheriff may adjourn the sale from time to time, not exceeding in all 3 months. In case of such adjournment public notice thereof shall be given at the time and place fixed for the sale. If the adjournment shall be for more than one day further notice shall be given by posting or publishing the same, or both, as the time and circumstances may admit.

- Postponed for a week?
 - Can the attorney draft and get you a new notice to be posted? (Possible??)
 - Can the notice be published? Most papers need 10 days to publish legal notices
 - Be sure to announce the new date at the initial sale date.

- Postponed for 2 weeks?
 - Can the attorney draft and get you a new notice to be posted? (There is no reason why they cannot)
 - Can the notice be published? Most papers need 10 days to publish legal notices
 - Be sure to announce the new date at the initial sale date.

- Postponed for a month or more?
 - Can the attorney draft and get you a new notice to be posted? (This must be reposted)
 - Can the notice be published? Most papers need 10 days to publish legal notices, now there is no reason not to publish at least a few times.

Writ of Assistance - Property

- Apartment. Writ of Assistance, with a bond, have you ever just ousted the people, have the locks changed and have the landlord and tenant work together to get the stuff out? I have done that once.
-
- Would you ever do that without a bond - - like get the person out and leave the stuff in there for them to work out?

- Legally, once the Sheriff does a Lock in place, we need a bond to protect us, once we leave, whatever deal the landlord and tenant make out to get the property back is fine with us, we are done once we remove them and lock it up.
- But yes.....get a bond to protect yourself

Execution Against Property

I have an execution against property. It deals with an eleven piece china set and states so in the execution. .

The china set is currently at the Judgment Creditor's business. The debtor brought it in to have it reset and cleaned and never made good on the bill.

The total Judgment costs are \$7279. I have a bond for \$14,559.

I have had no luck in tracking down the Debtor, he is not from the area.

What I plan to do Monday is arrive at the business and take pictures of the china and tag it. I was going to ask the owner of the business if it could be stored there (it has been for at least the past year) and ask if the sheriff sale could be held at his business.

I have been told antique china needs to be specialty wrapped and stored so it is not ruined. I plan then to inform the attorney to draw up postings and I will post them for at least twenty days in the municipality of sale.

Now the questions:

Do you think an outside appraisal of the china should be done?

I Believe the store owner would know but he is involved in the writ. I believe I would need to find out if he is bonded and insured as I am seizing the property when I tag it and storing with him.

If I am unable to contact the Debtor, I am unable to make demand for cash. I believe a letter and phone call to last known address and phone number should be enough.

If all these steps are taken, and a sale is done, what usually happens if a bid is not received?

Who is then responsible for the china?

- You have to exercise due diligence in locating the debtor, which would include inhouse records, post office and other reasonable efforts. If you cannot locate him/her then you have to document your efforts and make sure they are forwarded to the courts for placement in the file.
-
- Normally I would not let the creditor hold the items but in this case it might not matter...since he has had it for a while already.
- I would actually do this a bit differently, ask the creditor if he will pay for an outside appraiser that YOU pick. Then I would get the appraisal and have the creditor take the appraisal to the courts. If the appraisal is close to the judgment amount, the creditor could ask the courts to just award him the china to satisfy the judgment.
- The risk with going to a sale is unless it is published and you get the right people at the sale, you will not get much for the china.
-
- As for the sale, if no one shows or bids, the property is returned to the debtor and the creditor has to look for other property to seize. Also if the bid is below 70% of the value of the property, the courts can invalidate the sale.
-
- I would see if the creditor is willing to pay a hundred or so for the appraisal and then petition the court to just get the items and avoid a sale. Then he can sell them or keep them.
-

Sheriff's Sale Paperwork

What paperwork do you check before you sign the Sheriff's report of sale?

- Sheriff's Deed? (Signed by Sheriff)
- Sheriff's Report of Sale? (Signed by Sheriff)
- Real Estate Transfer Forms? (Sheriff Name on it)
- Affidavit of Publication? (relates to the report)
- Notice of Sale? (Sheriff's Name is on it)

- Who is responsible for making sure:
- Posting was 3 weeks prior to sale?
- Posting was in proper locations
- Publication was for 42 days?
- 10% down payment was made and deposited with clerk of courts

Sheriff's Report of Sale

"as provided by law, proofs of which are attached hereto."

Pursuant to a judgment of foreclosure and sale heretofore rendered by this court, after posting and publication of notice as provided by law, proofs of which are attached hereto, the undersigned sheriff did conduct a sale of the mortgaged premises as advertised at public auction.

"Sheriff give public notice of the time and place of such sale according to law"

By virtue of and pursuant to a Order for Judgment and Judgment of foreclosure entered in the above-entitled action on June 10, 2005, by which it was, among other things, ordered and adjudged that the premises mentioned in the complaint in this action, as hereinafter described, be sold at public auction, by or under the direction of the Fond du Lac County Sheriff (the "Sheriff"), where the premises are situated, and that the Sheriff give public notice of the time and place of such sale according to law and the rules and practice of this Court:

I, Gary M. Pucker Sheriff, do respectfully certify and report, that in conformity with the Judgment entered in this action, I advertised the mortgaged premises to be sold by me, at public auction to the highest bidder, at the City-County Government Building, 160 South Macy Street, Fond du Lac, Wisconsin, at 9:00 a.m. on October 11, 2005; that prior to the sale

Sheriff's Sale Paperwork

- A number of counties sent out a letter to all attorneys requiring specific paperwork after a Sheriff's Sale.



Mylan C. Fink, Jr.
Sheriff

Mark R. Strand
Chief Deputy

RE: Submission of Sheriff Sale Deed Packet to Fond du Lac County

Effective July 1, 2009 the State of Wisconsin mandated electronic filing of real estate transfer returns. Please submit the following documents to complete a Sheriff's Sale on foreclosed properties:

1. Deed
2. Electronic Wisconsin Transfer Return and Receipt (3 pages)
3. Sheriff's Report of Sale
4. Original Certificate of Posting
5. Original Notice of Sale
6. Original Proof of Publication **

When this packet is submitted, reviewed and signed, the paperwork will be submitted to the Fond du Lac County Clerk of Courts for the Confirmation of Sale hearing. Please note, incomplete packets will not be submitted, they will be returned to you unsigned.

If you wish to receive a copy of this paperwork, you must include sufficient copies as well as a stamped, self addressed envelope.

If you have any questions regarding this process, please contact Lieutenant Rick Olig at (920) 929-3378 or rick.olig@fdlco.wi.gov

Sincerely,

Mylan C. Fink, Jr., Sheriff

** Pursuant to Wis Supreme Court Case, Collins v. Smith 1983, "the first publication date must be six weeks (forty-two days) before the date of the sale...."

Probate - Sale

- The Sheriff sale was for THE ESTATE OF JANE SMITH. (Jane Smith's estate is in probate)
- We had a faxed bid for the property.
- There were 2 interested parties at the sale. Several questions were raised by both parties about probate debts –
- Would the successful bidder be responsible for probate debts?
- I did not have the answer to the question(s). I inquired with the Clerk of Courts, they were kind enough to review the file and could not give us a definitive answer. I then proceeded to BR I and made the same inquiries – unfortunately their response was: “We do not give legal advice.” I then advised the interested parties that I would be postponing the sale until the next week and was going to contact the attorney for the plaintiff to see if I could educate myself further.
- I did contact the plaintiff's attorney – again, “We do not give legal advice.” I contacted both interested parties and told them that I ran into dead ends and they would have to seek personal counsel if they wished to proceed. (Both parties understood they would be out the 10% downpayment if they backed out of a successful bid.)

More....

- The day of the sale I was speaking with an attorney acquaintance (while taking care of a different matter), and asked his opinion of this situation. He advised that probate debts are not the responsibility of the successful bidder in a Sheriff Sale matter. If there is “extra money” at the end of the Sheriff sale, this may be applied to these debts, but the ‘new owner’ is not responsible for the other debts.
- I spoke with my Probate personnel and they said this is true...Just like other liens, the primary lien is the only one that stays, along with real estate taxes. Probate claims are a separate item.

One More Thing

- Sorry to bother you again, but the successful bidder on that Probate/Sheriff Sale property is a persistent individual!!!
- Apparently the family of the estate was bidding against the successful bidder (and obviously didn't get the property), so the successful bidder is concerned that someone may go into the residence and do damage. The confirmation of sale hearing is set for 05.27.09 – question: after the confirmation of sale is complete, may the 'winner' change the locks? What if they find someone in the residence between now and then? Is our documentation from the sale adequate to remove the family from the residence?
- The sale date is like the "offer date" during a regular sale and the current owner has the right to be in the property until the closing which is the confirmation of sale date. On the confirmation hearing date, the new owner can change the locks and has ownership.....

Law protects renters from foreclosure evictions

- The law allows tenants to remain in their foreclosed rentals through the end of their lease and then 90 days after that before being forced to vacate by the lender. Renters without leases will have 90 days, a significant improvement over what most received before: almost no notice at all.
- For their part, lenders applaud the new notice provision, but are unclear when the 90-day clock starts, said Francis Creighton, vice president of the Mortgage Bankers Association. The foreclosure process can last more than a year, and the law isn't specific on when notice to the tenant must be given.

- New law, 09 Act 2, creating 704.35, 846.35, and 846.40, plus others. These are the ones affecting us, but I believe these should be handled at the courts, and never reach us. I haven't had time to really go over them yet though...

Writ of Assistance – Service Date

- Just completed a writ of assistance. When we get them they are stamped with the date received and a blank space for date served. Should the date served be the first day I contacted the defendant or today when he is out and the plaintiff is in possession of the premises? The process took about three weeks. Thanks.
- We put the completion date as the date served since you really did not “serve” it until he was moved out.

Writ of Replevin

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<small>For Official Use</small>
Plaintiff: _____	Writ of Replevin
-vs-	
Defendant: _____	Case No. _____

To the sheriff of _____ County.

A judgment in favor of plaintiff and against the defendant was entered on _____ Date _____

for return of the following property

Complete description of property (include identifying characteristics, such as serial number, VIN, special markings, etc.):	Location where property can be found:

See attached.

IT IS ORDERED THAT YOU:

- Immediately seize the property from the defendant and deliver it to the plaintiff.
- Complete the sheriff's report below and return this writ within sixty days after receipt.

BY THE COURT:

(Seal)

Circuit Court Judge/Circuit Court Commissioner/Clerk of Circuit Court
Name Printed or Typed
Date

Information to assist sheriff (to be completed by court staff):

	Plaintiff	Plaintiff's Attorney	Defendant	Defendant's Attorney
Name:				
Address City/State/Zip:				
Business Phone:				
Home Phone:				

Sheriff's Report to Court:

I received this writ on (date) _____ at _____ a.m. p.m.
 I executed this writ on (dates) _____ and
 recovered the property as described and delivered it to the plaintiff.
 recovered some of the property (attach description) and delivered it to the plaintiff.
 could not find the property within this county and I returned the writ unsatisfied.

Sheriff's Signature	Date
---------------------	------

Writ of Replevin

Lower portion of the writ

IT IS ORDERED THAT YOU:

- Immediately seize the property from the defendant and deliver it to the plaintiff.
- Complete the sheriff's report below and return this writ within sixty days after receipt.

BY THE COURT:

(Seal)

Circuit Court Judge/Circuit Court Commissioner/Clerk of Circuit Court

Name Printed or Typed

Sheriff's Report to Court:

I received this writ on (date) _____ at _____ a.m. p.m.

I executed this writ on (dates) _____ and

- recovered the property as described and delivered it to the plaintiff.
- recovered some of the property (attach description) and delivered it to the plaintiff.
- could not find the property within this county and I returned the writ unsatisfied.

Sheriff's Signature	Date
---------------------	------

Executions Against Property

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY		For Official Use
Case Caption	Execution Against Property	
Case No. _____		

TO: Sheriff of _____ County:

Judgment was entered in this case as indicated below for the amount listed, plus subsequent costs, including statutory interest from entry of judgment.

You are ordered to satisfy this judgment out of the personal property of the judgment debtor within your county. If sufficient personal property cannot be found, satisfy the judgment out of the real property in your county belonging to the judgment debtor.

Return this execution within 60 days after you receive it, to the clerk of Circuit Court of the issuing county.

Judgment Debtor(s) (Name and Address)	Debtor's Attorney (Name and Address)
Judgment Creditor(s) (Name and Address)	Creditor's Attorney (Name and Address)

Date of Judgment: _____	Total Judgment & Costs: \$ _____
Date Docketed: _____	Satisfaction/Releases/Modifications: \$ _____
Time Docketed: _____	Net Due: \$ _____

Remarks/Description of property to be returned to creditor:

If execution is in a county other than the originating county, this information must be completed:

County To Which Execution is Directed	Date Transcript Docketed	Time Transcript Docketed
---------------------------------------	--------------------------	--------------------------

Seal

Clerk of Circuit Court:

Authorized Signature Date

Address

Current Judgment Owner Date

Sheriff's Endorsement of Receipt

Date Received: _____
Time Received: _____

To be completed by creditor or attorney.		To be completed by sheriff. Total amount due upon execution \$ _____ including sheriff's fees.
Net due from above	\$ _____	
Interest due to date of _____	\$ _____	
Total balance due to date of _____	\$ _____	
Per diem interest calculation \$ _____	\$ _____	

Executions

Distribution of Form: Original to sheriff to be returned to court by sheriff indicating what the sheriff did or did not seize

Accompanying Forms: Generally none

Return this execution within 60 days after you receive it, to the clerk of Circuit Court of the issuing county.

Judgment Debtor(s) (Name and Address)	Debtor's Attorney (Name and Address)
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Writ of Restitution

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY For Official Use

Plaintiff: _____ **Writ of Restitution (Eviction)**

-VS-
Defendant: _____

Case No. _____

To the sheriff of _____ County.

A judgment in favor of plaintiff and against the defendant in an eviction action was entered on _____ date

for restitution of the following premises _____

IT IS ORDERED THAT, within 10 days after you received this writ, you:

- Remove the defendant and all other persons found upon the premises claiming under the defendant, using such reasonable force as is necessary.
- Remove or supervise removal of all personal property found in the premises not the property of the plaintiff, using such reasonable force as is necessary.
- Assist the plaintiff or the plaintiff's agent in the removal of all personal property found in the premises not the property of the plaintiff, using such reasonable force as may be necessary.
- Exercise ordinary care in the removal or supervision of removal of all persons and property from the premises and in the handling and storage of all property removed from the premises.
- Store and dispose of any removed personal property according to law unless the plaintiff, the plaintiff's attorney, or the plaintiff's agent notifies the sheriff that the plaintiff or the plaintiff's agent will remove and store or dispose of the property found in the premises.
- Complete the sheriff's report on page 2 and return this writ to the court.

BY THE COURT:

Judge/Commissioner/Clerk

Name Printed or Typed

Date

(Seal)

Information to assist sheriff:

	Plaintiff	Plaintiff's Attorney	Defendant	Defendant's Attorney
Name:				
Address City/State/Zip:				
Business Phone:				
Home Phone:				

Complete the sheriff's report on page 2

Writ of Restitution (Eviction)

Page 2 of 2

Case No. _____

Sheriff's Report to Court:

I received this writ on (date) _____ at _____ a.m. p.m.

I executed this writ on (dates) _____ and _____

- removed the defendant and others claiming under the defendant from the premises.
- removed and am storing the defendant's personal property.
- assisted the plaintiff in removing and storing the property.
- other: _____

Sheriff's Signature

Date

system, see comments below.

Distribution of Form:

Original is signed and sealed by the clerk to be delivered to the Sheriff. The clerk may retain copies in the court file. When the original is returned to the clerk by the sheriff, the original is then filed.

Accompanying Forms:

Generally none, unless the property description is too long and has to be

Writ of Restitution (Eviction)

Page 2 of 2

Case No. _____

Sheriff's Report to Court:

I received this writ on (date) _____ at _____ a.m. p.m.

I executed this writ on (dates) _____ and

- removed the defendant and others claiming under the defendant from the premises.
- removed and am storing the defendant's personal property.
- assisted the plaintiff in removing and storing the property.
- other: _____

Sheriff's Signature	Date
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Writ of Assistance

RECEIVED

WRIT OF ASSISTANCE

JUL 15 2009
10:00 AM
FOND DU LAC COUNTY 08 CV 592
SHERIFF'S OFFICE

THE STATE OF WISCONSIN,
CIRCUIT COURT, FOND DU LAC COUNTY

The State of Wisconsin, to the Sheriff of the County of Fond Du Lac, Greetings:

WHEREAS, By a Judgment of this Court in an action therein pending, between Countrywide Home Loans, Inc., plaintiff and Dawn M VanTassel/Glenn M VanTassel, et al. Defendants, entered on the 11th day of September 2008, wherein and whereby it was, among other things, adjudged that he following described premises, to-wit:

LOT NUMBER ONE (1) OF WETTSTEIN AND MARCOU'S REPLAT OF LOTS NUMBERED THIRTY-ONE (31), THIRTY-TWO (32), THIRTY-THREE (33), THIRTY-FOUR (34), THIRTY-FIVE (35) AND THIRTY-SIX (36) OF BLOCK NUMBER THIRTY (30) OF THE ORIGINAL PLAT OF THE CITY OF FOND DU LAC, FOND DU LAC COUNTY, WISCONSIN.

Address: 380 Amory St., Fond Du Lac, WI 54935
Tax Key Number: FDL-15-17-10-11-071-00

be sold at Public Auction by the Sheriff of Fond Du Lac County, and the said Sheriff having filed his report of such sale (which report has been duly confirmed by an order of this Court), and it appearing there from that plaintiff's assignee to Countrywide Home Loans, Inc., became the lawful purchaser of said premises at such sale, and that said Sheriff had executed to him a Deed for said premises;

AND WHEREAS, On behalf of said purchaser proof has been made that the said premises are in possession and occupation of unknown tenants, and that upon production of the Sheriff's Deed and a demand for the possession of said premises the said occupant refused and still refuses to deliver the possession thereof to said purchaser, in obedience to the said Judgment, and an order having this day been made herein, directing that this Writ of Assistance issue.

THEREFORE, We command you, that without delay, you eject and remove from said premises all and every person or persons holding and detaining the same, or any part thereof, against the said purchaser; and that you put the said purchaser in the full, quiet and peaceable possession of the said Judgment of the said Court, and that you certify to the Judge of our said Court, at the County of Fond Du Lac, your doings herein, with all convenient speed.

WITNESS, the Honorable Robert J. Wirtz of the Civil Court

Dated this 9th day of July, 2009

BY THE COURT
CLERK OF CIRCUIT COURT



By: [Signature]
Judgment Clerk

“certify to the judge”

been made herein, directing that this Writ of Assistance issue.

THEFORE, We command you, that without delay, you eject and remove from said premises all and every person or persons holding and detaining the same, or any part thereof, against the said purchaser; and that you put the said purchaser in the full, quiet and peaceable possession of the said Judgment of the said Court, and that you certify to the Judge of our said Court, at the County of Fond Du Lac, your doings herein, with all convenient speed.

Bankruptcy Court

- **59.27(12)**

(12) Before conducting a sale of foreclosed property, contact the clerk of the federal bankruptcy court to determine whether the court has granted a stay of relief on that property.

- Eastern District of WI – Bankruptcy Court Info:

- <http://www.wieb.uscourts.gov/>

- 877-781-7277

- Western District of WI – Bankruptcy Court Info:

- <http://www.wiw.uscourts.gov>

- (800) 743-8247

Execution Sale

- I had another question about the sale of real estate for an execution. When selling real estate is the full amount of the sale due right away or is it handled like a foreclosure sale and we only require 10% down at the time of the sale?

- I do not believe there is a confirmation of sale hearing, which is the time the remainder is due so...unless the notice of sale says they can pay 10% down and gives a date for final payment, I would require full payment at the time of sale.

Bankruptcy??

- I have an execution against property that I returned unsatisfied because the defendant had filed bankruptcy. The attorney writes that the purchases were made after the bankruptcy so the filing has no effect. The attorney wants me to find assets to execute on. Shouldn't the attorney have a financial disclosure statement that would list any assets held by the defendant? I know we don't go looking for things to seize. I'm looking for some tactful verbiage to tell him so.

- Reference this writ, the plaintiff and his attorney are from Michigan. The defendant's attorney is from La Crosse.
- **Chapter 12 was filed in 2006.**
- **The purchases were made in 2008.**
- I have a copy of the bankruptcy and a statement of the transactions in 2008.
- According to the plaintiff's attorney, this is a post petition claim so the bankruptcy has no effect.
- The defendant told me the reorganization hasn't worked with the drop in milk prices and other farm income. He said he is looking for a place to live because he's "losing the farm".

- The execution sounds like it can be acted on since you have the proper documentation.
- My concern would be selling things that may have liens etc. Since you know the debtor, contact him and ask what he has and tag the items as a seizure, then contact the plaintiff and determine how it is going to be moved and stored prior to sale. They should pay all moving and storage fees prior to actually moving the items.
- Then you can have them draft the sale paperwork, and post it. Remember the property has to be viewable at the time and location of the sale. Once the sale is complete, your fees are paid first, then the rest of the proceeds go to the plaintiff.
- During the sale you sort of need to keep track of the amount owed and fees, so you do not sell more than the amount that is owed. Once you hit the total amount owed, you stop selling, even if the items are listed to be sold.

Mileage Fees

- We here at Rock County are currently refunding mileage if a respondent comes to the RCSO and picks up his/her paper. We refund the mileage to the plaintiff/petitioner even if we made attempts at the respondent's residence.
- I'd like to change that procedure but anticipate the administration's question of "what are other counties doing?"
- Do you know what other counties are doing reference refunding procedures given this set of circumstances?

814.70(3)(a)

- In counties having a population of less than 500,000, 25 cents for each mile “actually and necessarily traveled.”
- What does “Actually and necessarily traveled” mean.
- You serve a paper at 123 Main St, then you go to 200 Main St. Do you charge from the SO to each address, or do you charge the actual mileage travelled?
- This is one reason we went to a flat fee rate.

Replevin

Plaintiff – Joe

Respondent – Sam

Court issues a Writ of Replevin for Joe to retrieve vehicle from Sam. Sam has left the area but vehicle is still at the apartment.

After paperwork was filed, but before the court hearing, Sam sold the vehicle to Carmen.

Vehicle is titled to Carmen

What do you do?

Do you need a bond?

- Joe cannot get a bond.....
- He is not a US Citizen...No Social Security Number
- Now what?

- Is there any doubt as to the owner of the vehicle?

Sheriff contracting with
Auctioneer's for real estate
foreclosures?

- 1 **AN ACT** *to amend* 59.27 (12) and 846.10 (1); and *to create* 75.35 (2) (g), 75.36 (3)
2 (a) 2m. and 846.095 of the statutes; relating to: foreclosure sale by auctioneer
3 and sale of tax-deeded lands by auctioneer.
-

Analysis by the Legislative Reference Bureau

Generally, under current law, if the plaintiff in a mortgage foreclosure action recovers judgment, the court orders the property to be sold by the sheriff or a referee. The highest bidder at the sale becomes the purchaser of the property, and the amount bid and paid pays off all or a part of the debt to the plaintiff.

This bill provides that any party in a foreclosure action may request that the property be sold by the sheriff through the services of an auctioneer. If that request is made, the court must order that the sale be conducted by an auctioneer named by the party making the request and approved by the court. The auctioneer must be named in the judgment and the sheriff must enter into a contract with the auctioneer within 14 days after the judgment is entered. If an auctioneer conducts a sale, the auctioneer's fee is the amount stated in the contract with the sheriff. However, if the court does not confirm the sale, which could occur if the price obtained for the property were so inadequate as to shock the conscience of the court, the auctioneer is compensated only for his or her advertising expenses plus \$100. The auctioneer's compensation must be paid before any other costs of the sale are paid.

Also under current law, generally, if a person fails to pay property taxes on the person's property, the county where the property is located may issue a tax deed against the property and sell the property in order to pay the delinquent taxes. The

Future Meetings??

- Dates and Locations?
- Are you interested in hosting?