



**REPLEVIN**

- Replevin is an action to regain personal property unlawfully held or retained by another. Replevin can be filed as a **small claim** action if the value of the property claimed does not exceed \$10,000 and is filed as a **large claim** if the value exceeds \$10,000. Service rules are the same as for more conventional small claim or large claim actions. Covered under Chapter 810.
- Writs of replevin can be issued **pre-judgment (810.02)** or **post judgment (810.14)**. These writs can be somewhat involved and place extra responsibilities on the sheriff. Be sure to determine if you have a pre or post judgment replevin.

## Replevin as a Small Claims Action - 799.05:

- The paper must be **served eight business days before the return date**. The return date for the summons served must be not less than eight business days from the issue date or more than 30 days from the issue date.
- Service of small claims actions can be accomplished in one of two ways.
- **Personal service** in the standard way with the possibility for substitute service if after due diligence the party cannot be found.
- By **mail if the circuit court** in the jurisdiction where the action is filed has a rule which so authorizes this procedure. If this method is used the original and necessary copies of the paper along with the appropriate fees are left with the clerk of court for mailing. Service is deemed to have occurred when the paper is mailed.

## Replevin as a Large Claims Action - 801.02:

- **The paper must be served within 90 days of filing.** If after due diligence the party cannot be found, then substituted service is to be employed. If with reasonable diligence the party cannot be served personally or by substituted service, service may be made by publication of the summons as a class 3 notice under ch.985 and by mailing.
- If the defendant's post-office address is known or can with reasonable diligence be ascertained there should be mailed to the defendant, at or immediately prior to the first publication a copy of the summons and complaint. The mailing may be omitted if the defendant's post-office address cannot be found with reasonable diligence.

## Writs of Replevin Pre-Judgement:

- When the plaintiff is seeking immediate delivery of the property the complaint must show or the affidavit must so state the following:
- **810.02 - Order directing return of property:** An order directing the return of property to the plaintiff at **any time before final judgment in a replevin action** shall be issued only by a judge or other judicial officer on the affidavit of the plaintiff made after summons is issued. The affidavit or verified complaint shall set forth specific factual allegations to show the following:
  - 1) That the plaintiff is entitled to the possession of the property claimed, particularly describing it;
  - 2) That the property is wrongfully detained by the defendant;
  - 3) The alleged cause of detention according to the plaintiff's best knowledge, information and belief;
  - 4) That the property has not been taken for a tax, assessment or fine or seized under any execution or attachment against the property of the plaintiff, or that if so seized that it is exempt from the seizure;
  - 5) The value of the property; and
  - 6) The location of the property claimed by the plaintiff with sufficient specific factual allegations for the judge or judicial officer to determine that there is reason to believe that the property is in the location described or in the possession of the defendant or any person acting on behalf of, subject to or in concert with the defendant.

## Handling a Pre-Judgment Replevin:

- Verify the above paperwork
- Prepayment should be addressed
- Read the court order to determine who is to move the property and where it is to be taken for storage/safekeeping.
- Based on the affidavit, you may wish to discuss obtaining a civil search warrant prior to acting on the pre-judgment replevin. (810.09)
- If denied access, consult 810.09, if a civil search warrant was not part of the initial pre-judgment replevin.
- There is no requirement to serve the defendant prior to seizing the property.
  - It is a good practice to leave a copy of the order at the premises and/or make an attempt to notify the defendant of this seizure.
  - Notify the local law enforcement of this action to avoid unnecessary theft reports.
- Once the property is in the hands of the party listed in the court order, the Sheriff's duties are concluded
- Return to the courts must be completed by the Sheriff and returned to the courts within a reasonable time.
- Not very common!

### **Requisition to sheriff – 810.03:**

- Upon the issuance of an order making a factual determination set forth in s. 810.02 and upon the execution of a bond in an amount approved by the judge or judicial officer and with sufficient sureties approved by the judge or judicial officer, to secure the value of the property, the prosecution of the action, the return of the property to the defendant, if the return thereof be adjudged, and payment to the defendant of such sum as may be recovered against the plaintiff, the sheriff shall then take the property from the defendant or such persons as are acting on behalf of, in concert with or under control of the defendant, and deliver possession of the property to the plaintiff.

### **Motion to vacate or modify – 810.05:**

- The defendant may at any time upon notice to the plaintiff move the court or the presiding judge thereof to vacate or modify the order directing delivery of the property for any sufficient cause. A motion to vacate or modify the order directing delivery of the property may be combined with a motion to increase the plaintiff's security or excepting to the sureties on the plaintiff's bond.

### **Return of property to defendant – 810.06:**

- At any time before final judgment the defendant may require the return of the property by executing and delivering to the sheriff a bond, executed by sufficient sureties to the effect that the defendant shall be bound to the sum of the bond for the delivery of the property thereof to the plaintiff, if the delivery be adjudged, and for the payment to the plaintiff of such sum as may be recovered against the defendant.

### **Justification of sureties – 810.07:**

- The plaintiff may within 3 days after notification by the sheriff that the defendant demands a return of the property except to the defendant's sureties by motion to the judge or judicial officer under s. 810.08 (2), and the judge or judicial officer shall determine the sufficiency of the sureties provided for the bond.

### **Affidavit and justification of sureties – 810.08:**

- **(1)** The sureties, under this chapter, shall append to their bond their affidavits in which each shall swear that he or she is a resident freeholder and is worth the sum stated in the bond above his or her liabilities in property in this state not exempt from execution.
- **(2)** The justification of sureties under this chapter shall be before a judge on not less than 2 nor more than 6 days' notice. Each surety must swear that he or she is a resident freeholder in this state and is worth the sum stated in the surety's bond above the surety's liabilities in property in this state not exempt from execution. But if there are more than 2 sureties on any bond they may be accepted if they shall justify severally in sums which aggregate double the sum named in the bond.



### **Property in building, how taken – 810.09:**

- If the property or any part thereof is in a building or enclosure the sheriff may demand its delivery. If the property is not delivered the sheriff shall advise the plaintiff of the refusal of the delivery. The plaintiff may then apply to the court for a warrant upon a sufficient showing of probable cause that the property is contained in the building or enclosure and upon delivery of the warrant of the judicial officer to the sheriff the sheriff may then enter and take the property. i.e., Civil Search Warrant.

### **Property, how kept – 810.10:**

- The sheriff shall keep the property taken in a secure place and deliver it to the party entitled thereto upon receiving the sheriff's lawful fees for taking and the sheriff's necessary expenses for keeping the same.

### **Claims of 3rd parties; indemnity to officer – 810.11:**

- If the property taken is claimed by a 3rd person, the 3rd person may make application to the judge or judicial officer under ss. 810.02 and 810.03 for an order directing that the 3rd person be given delivery of the property so claimed. Any person having possession of the property may move the court to vacate or modify the order directing delivery to the 3rd-party claimant, or post bond in the same manner provided for the defendant.

## **Post Judgment Replevin:**

A **Post Judgment Replevin** is ordered by the courts after a judgment has been imposed. **This writ is then directed to the Sheriff of the County where the items are located.**

### **Judgment in replevin – 810.14:**

- In any action of replevin judgment for the plaintiff may be for the possession or for the recovery of possession of the property, or the value thereof in case a delivery cannot be had, and of damages for the detention; and when the property shall have been delivered to the defendant, under s. 810.06, judgment may be as aforesaid or absolutely for the value thereof at the plaintiff's option, and damages for the detention. If the property shall have been delivered to the plaintiff under ss. 810.01 to 810.13 and the defendant prevails, judgment for the defendant may be for a return of the property or the value thereof, at the defendant's option, and damages for taking and withholding the same.

# Writ of Replevin:

- Be sure the form is completed, including:
  - Directed to the Sheriff of your county.
  - Gives a detailed description of property to be seized, including serial numbers or other identifiers.
  - Signed by the Clerk of Courts, Judge or Court Commissioner.
  - Provides the necessary Plaintiff and Defendant information.

15-121

STATE OF WISCONSIN, CIRCUIT COURT, FOND DU LAC COUNTY For Official Use

Plaintiff: Lebakkens Rent-to-Own Writ of Replevin

-vs-

Defendant: Ariana Wright Case No. 15SC880

Must be directed to YOUR county Sheriff

To the sheriff of Fond du Lac County.

A judgment in favor of plaintiff and against the defendant was entered on 5/18/15 Date

for return of the following property.

Complete description of property (include identifying characteristics, such as serial number, VIN, special markings, etc.): Ashley Sofa model # 1870138, serial # S439652427, Ashley Loveseat model # 1870135 serial # S439894191, RCA Thompson 50" tv model #LED50B45RQ serial # B45A112501, Dell Computer model #i35311200BK serial #7D6M502	Location where property can be found: Ariana Wright 1060 Prospect Ave. #7 N. Fond Du Lac Wi. 54937
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Specific description, verify VIN etc

RECEIVED

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.

JUN 01 2015  
1:55 p.m.  
FOND DU LAC COUNTY  
SHERIFF'S OFFICE



BY THE COURT:  
*Richard J. Nuss*  
Circuit Court Judge/Circuit Court Commissioner/Clerk of Circuit Court  
Hon. Richard J. Nuss  
Name Printed or Typed  
5-22-15  
Date

Watch for things the plaintiff will "add" or "change" after the court issues the writ.

(Changes vin, adds property etc)

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

	Plaintiff	Plaintiff's Attorney	Defendant	Defendant's Attorney
Name:	Lebakkens Rent-To-Own		<u>Ariana Wright</u>	
Address	558 N Rolling Meadows Drive		1060 Prospect Ave. #7	
City/State/Zip:	Fond du lac, WI 54937		N.Fond Du Lac Wi. 54937	
Business Phone:	(920) 924-7368			
Home Phone:			(920)273-5750	

Sheriff's Report to Court:

I received this writ on (date) 6-1-15 at 1:55  a.m.  p.m.

I executed this writ on (dates) 6-5-15 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: [Signature] #B Date: 6-5-15

CLERK OF CIRCUIT COURT  
OUTAGAMIE COUNTY FILED  
JUL 10 2024  
AT O'CLOCK

BY THE COURT:  
Carrie A. Schneider  
Carrie A. Schneider  
Circuit Court Judge

Date: 7/8/2024

STATE OF WISCONSIN, CIRCUIT COURT, OUTAGAMIE COUNTY  
Plaintiff: Fox Communities Credit Union Writ of Replevin (Small Claims)  
-vs-  
Defendant: Rocky C. Neuman, Jr. Case No. 24CV271  
To the sheriff of Portage County.

A judgment in favor of plaintiff and against the defendant was entered on (Date) April 17, 2024, for return of the following property:

Complete description of property: (Include identifying characteristics, such as serial number, VIN, special markings, etc.) 2021 Kawasaki jet ski Ser No. US-KAW80127B121 2021 Yacht Club trailer Ser. No. 4H1001510M0559569	Location where property can be found: 1601 W. River Dr., Stevens Point
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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 and return the writ within sixty (60) days after receipt.

Information to assist sheriff:

Plaintiff (Name and Address) Fox Communities Credit Union 2201 E. Enterprise Ave. Appleton WI 54913		Plaintiff's Attorney (Name and Address) Steven J. Cerasoli / McCarty Law 2401 E. Enterprise Ave Appleton WI 54913	
Plaintiff's Business Phone (920) 993-3719	Plaintiff's Home Phone n/a	Plaintiff's Attorney Business Phone (920) 257-2207	Plaintiff's Attorney Home Phone (920) 428-1561
Defendant (Name and Address) Rocky C. Neuman, Jr. 1601 W. River Dr. Stevens Point WI 54481		Defendant's Attorney (Name and Address) Not represented	
Defendant's Business Phone Unk.	Defendant's Home Phone Unk.	Defendant's Attorney Business Phone Not represented	Defendant's Attorney Home Phone Not represented

Complete the Sheriff's Report on page 2.

COPY


Replevin Issued in one county but to be executed in another county

## Handling a Replevin:

- Verify the above paperwork
- Prepayment should be addressed
- Verify VIN's through DOT.
- Contact the plaintiff to determine who is to move the property and where it is to be taken for storage/safekeeping.
- There is no requirement to serve the defendant prior to seizing the property.
- It is a good practice to leave a copy of the order at the premises and/or make an attempt to notify the defendant of this seizure.
  - Draw case number to avoid unnecessary theft reports.
  - Execute the writ of replevin.
- The writ is for specific property, which can be seized anywhere within your jurisdiction.
- If denied access, consult 810.09, to obtain a civil search warrant.
- Once the property has been seized, notify the plaintiff of your actions.
- Return to the courts must be completed by the Sheriff and returned to the courts within a reasonable time.

**Bond of Indemnity –  
811.06 and 811.13:**

- A bond may or may not be necessary based upon the facts of the writ, any reasonable doubt that may exist regarding ownership, or to cover potential damages.
- Once received by the Sheriff, this writ must be returned to the courts within sixty days, sooner if completely satisfied.

  
**Western Surety Company**

STATE OF WISCONSIN }  
County of Portage } IN THE Circuit COURT

Marine Credit Union }  
Eric Osgood } Plaintiff(s)  
vs. }  
Eric Osgood } Defendant(s)

**BOND OF INDEMNITY TO SHERIFF**

Effective Date: April 8th, 2024

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 67019048

That we, the above named Plaintiff(s), as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do business in the State of Wisconsin, as Surety, are held and firmly bound unto Mike Lukas

the Sheriff of Portage County, Wisconsin, in the sum of Fifteen Thousand Three Hundred Eighty Seven and 50/100 DOLLARS (\$ 15,387.50), for the payment of which well and truly to be made, we bind ourselves and our legal representatives, jointly and severally by these presents.


THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, before the Sheriff will acquire Defendant's property or deliver it to the Principal he requires indemnity as provided by 810.11, 811.13, 811.24 or 815.24 of the Wisconsin Statutes Annotated.

NOW, THEREFORE, if the Principal will:

- 1) Indemnify and keep indemnified the Sheriff against any claim by third parties to the property so attached or held by the Sheriff in this action, or
- 2) Pay all damages, costs and expenses of any action brought by the Sheriff under 811.24, not exceeding Two Hundred Fifty Dollars (\$250.00).

Then this obligation to be void, otherwise to remain in full force and effect, provided, however, that the total liability of the Surety shall not exceed the amount of this bond.

Har D Principal  
Principal  
WESTERN SURETY COMPANY  
By Larry Kasten Larry Kasten, Vice President



Form F833-11-2014

## Writs of Attachment - Chapter 811:

- The writ of attachment is a paper issued by the judge on request of the plaintiff at any time after a summons and complaint has been filed but before final judgment. The writ is directed to the sheriff of the county in which the property is located and requires the sheriff to attach all the property of the defendant within the county or so much thereof as may be sufficient to satisfy the plaintiff's demand, together with costs and expenses.
- If the attachment is asking for a dollar amount the sheriff does not have to guess as to what property he/she should have to tag. In such a circumstance the plaintiff should arrange for a supplemental hearing to assess what property the respondent has so that he/she can then give the sheriff an attachment with the property specifically listed.
- Before the writ of attachment can be executed a bond on the part of the plaintiff shall be filed with the court in an amount set by the judge issuing the writ. No bond is necessary when the plaintiff is the state, or any county, town or municipality, therein.

### 811.06

- Upon receipt of the writ of attachment the sheriff shall without delay seize so much of the property of the defendant in the sheriff's county that will satisfy the plaintiff's demands with costs and expenses and make an inventory thereof. The sheriff shall arrange for all the personal property attached to be appraised by two disinterested residents of the county who shall be first sworn by the sheriff to make a true appraisalment. 811.10
- The sheriff shall serve copies of the writ, the affidavit, bond, and inventory upon the defendant in the same manner as a summons.
- **VERY RARE**



## **Directions to sheriff; several writs - 811.10:**

**(1)** The sheriff shall without delay seize so much of the property of the defendant, in the sheriff's county, as will satisfy the demand of the plaintiff, with costs and expenses, and make an inventory thereof; the sheriff shall cause all personal property attached by the sheriff to be appraised by 2 disinterested residents of the county, who shall be first sworn by the sheriff to make a true appraisal thereof, which appraisal shall be signed by them, and the appraisal and inventory shall be returned with the writ; the sheriff shall serve copies of the writ, affidavit and bond, and inventory, upon the defendant in the same manner as a summons. In case of a nonresident or a foreign corporation the sheriff shall serve the copies of the writ, affidavit and bond, and inventory, on any agent of such defendant in the county, if any be known to the sheriff.

**(2)** *If 2 or more writs against the same defendant shall be executed on the same property an inventory and appraisal shall be made in but one of the actions, and the sheriff shall endorse on the copy served upon the defendant in the other action a notice that the property seized is the property seized in the action in which the inventory and appraisal are made, giving the title of the action; and the officer shall state in his or her return the fact of such endorsement*

# Civil Search Warrants – 810.09

- When we have a writ to seize property or a vehicle, if the property or vehicle is within a building and they refuse to let us enter, we have the Plaintiff obtain a search warrant.
- This warrant is different than the ones we use for law enforcement. This warrant is obtained by the Plaintiff and they take it to the judge for a signature and they bring it to us.
- The statute that applies is 810.09:
  - Property in building, how taken. If the property or any part thereof is in a building or enclosure the sheriff may demand its delivery. If the property is not delivered the sheriff shall advise the plaintiff of the refusal of the delivery. The plaintiff may then apply to the court for a warrant upon a sufficient showing of probable cause that the property is contained in the building or enclosure and upon delivery of the warrant of the judicial officer to the sheriff the sheriff may then enter and take the property.

Affidavit  
for  
Civil  
Search  
Warrant

STATE OF WISCONSIN\*\*\*SMALL CLAIMS COURT\*\*\*FOND DU LAC COUNTY

FORD MOTOR CREDIT COMPANY  
a foreign corporation  
PO Box 64400  
Colorado Springs CO 80961,  
Plaintiff,

COPY

RECEIVED

SEP 21 2011

FOND DU LAC COUNTY  
SHERIFFS OFFICE

vs.

Case No. 11 SC 463

PETER RASIMUS  
N615 Moraine Drive  
Campbellsport WI 53010,  
Defendant(s).

AFFIDAVIT OF DENNIS VIS

STATE OF WISCONSIN )  
)ss.  
FOND DU LAC COUNTY)

Dennis Vis, being first duly sworn on oath, deposes and states to the Court as follows:

1. I am an adult resident of the state of Wisconsin.
2. I am employed as a Fond du Lac County Sheriff's Deputy.
3. I give this Affidavit in support of Ford Motor Credit Company's Petition for a Civil Warrant Pursuant to Wis. Stat. § 810.09.
4. As a part of my duties, I attempted to execute the Writ of Replevin which is attached hereto as Exhibit A (the "Writ") upon the 2008 Mercury Milan automobile described therein (the "Vehicle") which is owned and, to my knowledge, possessed by Peter Rasimus ("Rasimus").
5. Rasimus lives at the address set forth in the Writ.
6. When I spoke with Rasimus at the time I attempted to execute the Writ against him, Rasimus refused to surrender the Vehicle or to disclose the location of the Vehicle.
7. A closed, locked shed and a closed, locked garage, either of which could house the Vehicle are located on the property at which Rasimus lives.
8. Rasimus refused to deliver the Vehicle to me.

9. Because Rasimus lives at the property at which I attempted to execute the Writ of Replevin and gave no indication that the Vehicle is being stored elsewhere, I believe that it is likely that Rasimus is storing the Vehicle in either the shed or garage located at the address set forth in the Writ.

10. I believe there is probable cause to enter the enclosed buildings located at the address set forth in the Writ to retrieve the Vehicle.

Dated this 1 of Aug, 2011.

D. Vis #64  
Dennis Vis, Affiant

Subscribed and sworn to before me  
this 1 day of Aug, 2011.

Chris Anthes  
Print Name: Chris Anthes  
Notary Public, State of Wisconsin  
My Commission expires .

# Petition for Civil Search Warrant

STATE OF WISCONSIN\*\*\*SMALL CLAIMS COURT\*\*\*FOND DU LAC COUNTY

FORD MOTOR CREDIT COMPANY  
a foreign corporation  
PO Box 64400  
Colorado Springs CO 80961,  
Plaintiff,

COPY

RECEIVED

SEP 21 2011

FOND DU LAC COUNTY  
SHERIFF'S OFFICE

vs.

Case No. 11 SC 463

PETER RASIMUS  
N615 Moraine Drive  
Campbellsport WI 53010,  
Defendant(s).

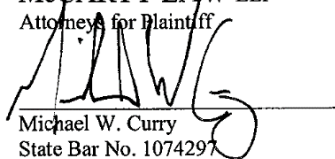
## PETITION FOR A CIVIL WARRANT PURSUANT TO WIS. STAT. § 810.09

Ford Motor Credit Company, by and through its attorneys, McCarty Law LLP, hereby applies to the Court for a Warrant to Seize Property pursuant to Wisconsin Statutes § 810.09.

Ford Motor Credit Company requests that such Warrant shall allow the Fond du Lac County Sheriff, or any deputy of the Fond du Lac County Sheriff, to search the enclosed buildings located on the Defendants property for the vehicle it has attempted to repossess pursuant to the Writ of Replevin Issued in this case (the "Vehicle"). Ford Motor Credit Company further requests that the Civil Warrant enable the Fond du Lac County Sheriff to repossess the Vehicle. This Petition is based upon the Affidavit of Dennis Vis and the entire file in this matter.

Dated this 7 day of September, 2011.

MCCARTY LAW LLP  
Attorneys for Plaintiff

  
Michael W. Curry  
State Bar No. 1074297

2401 East Enterprise Avenue  
Appleton WI 54913-7887  
p. (920) 882-4070  
f. (920) 882-7986  
mcurry@mccarty-law.com

Order for  
Civil  
Search  
Warrant

STATE OF WISCONSIN\*\*\*SMALL CLAIMS COURT\*\*\*FOND DU LAC COUNTY

FORD MOTOR CREDIT COMPANY  
a foreign corporation  
PO Box 64400  
Colorado Springs CO 80961,  
Plaintiff,

RECEIVED

SEP 21 2011

FOND DU LAC COUNTY  
SHERIFF'S OFFICE

vs.

Case No. 11 SC 463

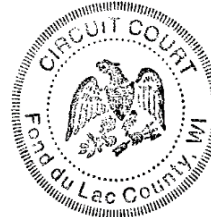
PETER RASIMUS  
N615 Moraine Drive  
Campbellsport WI 53010,

Defendant(s).

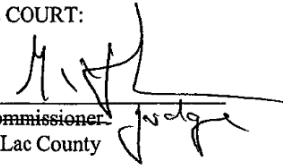
ORDER ISSUING CIVIL WARRANT  
PURSUANT TO WIS. STAT. § 810.09

IT IS ORDERED based upon a showing of probable cause that the Vehicle which is the subject of this case is being stored in an enclosed building located on Defendant's property that this Order shall Constitute a Civil Warrant Pursuant to Wis. Stat. § 810.09. Pursuant to this Order, the Fond du Lac County Sheriff shall be allowed to search any enclosed building located on the Defendant's property, <sup>@ N615 MORAIN DR, CAMPBELLSPORT, WI 53010</sup> it has probable cause to believe may contain the Vehicle which is the Subject of this case. This Warrant shall be valid for 60 days from the Court's signature hereon.

Dated this 16<sup>th</sup> day of September, 2011.



BY THE COURT:

  
Court Commissioner  
Fond du Lac County

Fond du Lac County Sheriff's Office, PO Box 1273, Fond du Lac WI 54936-1273  
(920) 929-3375 – [www.fdlsheriff.com](http://www.fdlsheriff.com)

STATE OF WISCONSIN

CERTIFICATE OF SERVICE

COUNTY OF FOND DU LAC

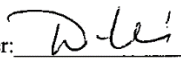
Case Number: 11-SC-463

I hereby certify that on October 12, 2011 at 08:30 AM at N615 Moraine Dr,  
Campbellsport, WI, County of Fond du Lac, I duly served the Writ Of Replevin on  
Peter Rasimus by then and there delivering to and leaving with Peter Rasimus (Self)  
personally and I endorsed with my name, official title and date of service thereon.

Comments: SEIZED VEHICLE & TOWED TO ROGER & DAN'S, KEWASKUM.

Dated: October 14, 2011

Mylan C. Fink, Jr.  
Fond du Lac County Sheriff

Per:   
Dennis Vis #64  
Deputy Sheriff, Fond du Lac County

Service: \$75.00

PAID

Certificate  
of Service  
Following  
Civil  
Search  
Warrant

# Writ of Replevin Question

## ?

The Sheriff's Department received a writ of replevin for a vehicle. Deputies attempted service at the respondent's home. The vehicle was parked outside in the driveway, but the person did not or would not come to the door. Deputies do not think they saw anyone in the residence. Do deputies have to attempt to personally serve the paper before they take the car?



When you get a writ of replevin there is no need to serve it on a person. The writ is for a specific piece of property and there is no requirement to serve the owner first.

All you need to do is make sure you are taking the vehicle on the writ (vin verification) and once u have the vehicle, leave a copy of the writ on the door. You might also want to notify the Communications center in case they call to report it stolen.

When we do this, we have the vehicle taken wherever the bank wants it taken, then when the defendant comes looking for their property they can deal with the bank to get them back.

My concern is if the person knows what we're trying to accomplish, they may hide the vehicle.

Curtilage?

# Civil Repossessions – Ch 425:

Creditors now can declare consumers in default and repossess motor vehicles without court intervention. The enactment in April 2006 of 2005 Wis. Act 255 puts creditors firmly in the driver's seat and leaves consumers waving goodbye to their vehicles and consumer protections. **Wisconsin Lawyer Vol. 80, No. 2, February 2007**

## **425.206 Non judicial enforcement limited.**

**(1)** Notwithstanding any other provision of law, no merchant may take possession of collateral or goods subject to a consumer lease in this state except when any of the following apply:

(a) The customer has surrendered the collateral or leased goods.

(b) Judgment for the merchant has been entered in a proceeding for recovery of collateral or leased goods under s. 425.205, or for possession of the collateral or leased goods under s. 425.203 (2).

(c) The merchant has taken possession of collateral or leased goods pursuant to s. 425.207 (2).

(d) For motor vehicle collateral or goods subject to a motor vehicle consumer lease, the customer has not made a demand as specified in s. 425.205 (1g) (a) 3. and **no sooner than 15 days after the merchant gives the notice specified in s. 425.205 (1g) (a)**, the merchant has taken possession of the collateral or goods in accordance with sub. (2).

**(2) In taking possession of collateral or leased goods, no merchant may do any of the following:**

**(a) Commit a breach of the peace.**

**(b) Enter a dwelling used by the customer as a residence except at the voluntary request of a customer.**

**(3)** A violation of this section is subject to s. 425.305.

# TROs and Use of Force

