MANITOWOC COUNTY SHERIFF'S OFFICE

1025 South 9th Street • Manitowoc, Wisconsin 54220

Sheriff - Robert C. Hermann *Inspector* - Gregg J. Schetter

WRIT OF RESTITUTION PROPERTY MEMO

Case names:_____ vs. _____
(Plaintiff) (Defendant)

Manitowoc County Circuit Court Case # _____

This memo has been prepared by _____ and I am the plaintiff/plaintiff's agent/plaintiff's attorney. **(print clearly and circle one)**

The judgment plaintiff requests that the Manitowoc County Sheriff's Office execute the Writ of Restitution in the above captioned action. The plaintiff has determined that the Writ of Restitution shall be executed in the following manner: **(Must select one option below)**

1._____The Manitowoc County Sheriff's Office shall execute the Writ of Restitution action in accordance with Wis. Stats., §799.45(1) and §799.45(2(b). The plaintiff will use an approved mover and pay all fees associated with that mover if eviction occurs.

2._____The Manitowoc County Sheriff's Office shall execute the Writ of Restitution in accordance with Wis. Stats., §799.45(1) and §799.45(2)(b). The plaintiff has secured the appropriate bond of indemnification ($5000 for apartment, $10,000 for house/business). **Note: Bond amount subject to change.**

3._____The plaintiff or plaintiff's agent shall be responsible for the removal and storage or disposal of all personal property found in the premises in accordance with Wis. Stats., §799.45(3m). The plaintiff/plaintiff's agent certifies that the notice requirements of Wis. Stats., §704.05(5) have been met. The Manitowoc County Sheriff's Office shall assist the plaintiff in the removal or supervision of removal of all personal property described in the Writ of Restitution pursuant to Wis. Stats.., §799.45(2)(bg). **(*Note: Will be subject to fees and may be subject to bonding requirements)**

***Fees:**
Writ fee $75
Additional standby time will be charged at $40 an hour per Deputy

See back of form for referenced Wisconsin Statutory provisions.

_____
Signature of person completing form

(____)_____
Contact Phone

_____
Printed name of person completing form

STATE OF WISCONSIN)
) SS:
COUNTY OF MANITOWOC)
Sworn to and subscribed before me this
_____day of _____, 20_____

_____
, Notary Public
Manitowoc, Wisconsin
My Commission Expires:_____

799.45 Execution of writ of restitution; disposal of personal property.

(1) When executed. Upon delivery of a writ of restitution to the sheriff, and after payment to the sheriff of the fee required by s. 814.70 (8), the sheriff shall execute the writ. If the plaintiff, or the plaintiff's attorney or agent, does not notify the sheriff under sub. (3m) that the plaintiff or his or her agent will remove and store or dispose of the property, the sheriff may require that prior to the execution of any writ of restitution the plaintiff deposit a reasonable sum representing the probable cost of removing the defendant's property chargeable to the plaintiff under s. 814.70 (8) and (10) and of the services of deputies under s. 814.70 (8). In case of dispute as to the amount of the required deposit, the amount of that deposit shall be determined by the court under s. 814.70 (10).

(2) How executed; duties of sheriff. In executing the writ of restitution the sheriff shall:

(b) If the plaintiff or his or her agent does not notify the sheriff under sub. (3m) that the plaintiff or his or her agent will remove and store or dispose of the personal property, remove or supervise removal from the premises described in the writ, using such reasonable force as may be necessary, all personal property found in the premises not the property of the plaintiff.

(bg) If requested by the plaintiff or his or her agent, assist the plaintiff or his or her agent in the removal, under sub. (3m), of all personal property found in the premises described in the writ, not the property of the plaintiff, using such reasonable force as may be necessary.

(3m) Alternative disposition of property by plaintiff. When delivering a writ of restitution to the sheriff, as a complete alternative to the procedure for disposition of the property under sub. (3), the plaintiff or his or her attorney or agent may notify the sheriff that the plaintiff or the plaintiff's agent will be responsible for the removal and storage or disposal of the property that is found in the premises described in the writ and that does not belong to the plaintiff in accordance with s. 704.05 (5). If the sheriff is notified that the plaintiff or the plaintiff's agent will be responsible for the removal and storage or disposal of the property under this subsection, the sheriff shall, if requested by the plaintiff or his or her agent, supervise the removal and handling of the property by the plaintiff or the plaintiff's agent.

704.05 Rights and duties of landlord and tenant in absence of written agreement to contrary.

(5) Disposition of personalty left by tenant.

(a) *At the landlord's discretion.*

1. If a tenant removes from or is evicted from the premises and leaves personal property, the landlord may presume, in the absence of a written agreement between the landlord and the tenant to the contrary, that the tenant has abandoned the personal property and may, subject to par. (am) and s. 799.45 (3m), dispose of the abandoned personal property in any manner that the landlord, in its sole discretion, determines is appropriate.

2. If the landlord disposes of the property by private or public sale, the landlord may send the proceeds of the sale minus any costs of sale and any storage charges if the landlord has first stored the personalty to the department of administration for deposit in the appropriation under s. 20.505 (7) (h).

(am) *Exception for medical items.* If the personal property that the tenant leaves behind is prescription medication or prescription medical equipment, the landlord shall hold the property for 7 days from the date on which the landlord discovers the property. After that time, the landlord may dispose of the property in the manner that the landlord determines is appropriate, but shall promptly return the property to the tenant if the landlord receives a request for its return before the landlord disposes of it.

(b) *Notice required if property is a manufactured or mobile home or a vehicle.*

1. In this paragraph:

a. "Manufactured home" has the meaning given in s. 101.91 (2).

b. "Mobile home" has the meaning given in s. 101.91 (10), but does not include a recreational vehicle, as defined in s. 340.01 (48r).

c. "Titled vehicle" means a vehicle, as defined in s. 340.01 (74), for which a certificate of title has been issued by any agency of this state or another state.

2. If the tenant removes from or is evicted from the premises and leaves behind personal property that is a manufactured home, mobile home, or titled vehicle, before disposing of the abandoned property the landlord shall give notice of the landlord's intent to dispose of the property by sale or other appropriate means to all of the following:

a. The tenant, personally or by regular or certified mail addressed to the tenant's last-known address.

b. Any secured party of which the landlord has actual notice, personally or by regular or certified mail addressed to the secured party's last-known address.

(bf) *Notice that landlord will not store property.* If the landlord does not intend to store personal property left behind by a tenant, except as provided in par. (am), the landlord shall provide written notice to a tenant, when the tenant enters into or renews a rental agreement, that the landlord will not store any items of personal property that the tenant leaves behind when the tenant removes from, or if the tenant is evicted from, the premises, except as provided in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord has not provided to a tenant the notice required under this paragraph, the landlord shall comply with s. 704.05, 2009 stats., with respect to any personal property left behind by the tenant when the tenant removes from the premises, or if the tenant is evicted from the premises and the landlord notifies the sheriff under s. 799.45 (3m).

(c) *Rights of 3rd persons.* The landlord's power to dispose as provided by this subsection applies to any property left on the premises by the tenant, whether owned by the tenant or by others. The power to dispose under this subsection applies notwithstanding any rights of others existing under any claim of ownership or security interest, but is subject to s. 321.62. The tenant or any secured party has the right to redeem the property at any time before the landlord has disposed of it or entered into a contract for its disposition by payment of any expenses that the landlord has incurred with respect to the disposition of the property.

(cm) *Inapplicability to self-storage facilities.* This subsection does not apply to a lessee of a self-storage unit or space within a self-storage facility under s. 704.90.