COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK

GENERAL ORDER CIVIL BUREAU	DATE OF ISSUE January 8, 2026	EFFECTIVE DATE January 8, 2026	NO. 006-26
SUBJECT: GENERAL ORDER Real Estate Property Executions		DISTRIBUTION Civil Bureau Personnel	AMENDS
REFERENCE: CIVIL 33			RESCINDS 006-24

Purpose: To define and familiarize members and employees with Sheriff's Office procedures relative to the acceptance, service, perfection and return of real estate property executions.

Policy: Members and employees will be responsible for maintaining uniform compliance and enforcement of real estate property executions in accordance with this General Order.

Definition: Real Property: Land, buildings, mobile homes, condominiums, etc. As with all property executions, the purpose of delivering a real property execution to the Sheriff is to have seizure and sale enforcement performed on behalf of a creditor's money judgment. The proceeds of the sale are applied to the judgment after deducting Sheriff's fees and expenses. An execution against real property authorizes the Sheriff to convey the debtor's interest in real property to a bidder as if the debtor were conveying the property at the time the execution creditor's judgment was docketed and became a lien.

I. Requirements from Attorney

A. Prepaid fees for service of the levy, filing, mileage and a deposit for advertising and related sales costs.

B. Signed letter from the attorney:

1. Specifically directing the Sheriff to sell the judgment debtor's real property identifying physical location of the parcel and related structures.

2. Indicating if the Homestead Act applies in accordance to the rules outlined in CPLR 5206.

C. Property Execution

In addition to the contents outlined in **CBGO-005 Property Executions**, the execution must also include the following:

1. Verification the judgment has been entered into Supreme Court, or filed with the County Clerk's Office to ensure that a lien is in proper standing.

2. A legal description of the real property to include:

a. Tax map identification number.
b. Full printed legal identification such as "All that tract or parcel of land. . ."

c. The book and page reference where the legal description is located in the County Clerk's Office.

3. The original and six (6) copies signed and dated by the attorney.

4. The execution must be directed to the Sheriff.

II. Receiving and Recording

A. Receiving and recording must be performed in accordance with the Civil Bureau "Operational Duties, Guidelines and Procedures Manual" Sections III. A-D.

B. Use the Real Estate Sale Checklist (CB-024) to ensure proper steps are followed in accordance with CPLR.

C. A levy demand cover sheet, final figure calculation and notice to judgment debtor (if applicable) must be included in addition to the Property Execution itself.

III. Service of Real Estate Property Execution by Deputy

* As outlined in **CBGO-005 Property Executions,** once service is completed, a certificate of service is prepared, signed, and mailed to the issuing attorney. If applicable, the Notice of Judgment Debtor is also mailed to the debtor at the same time.

IV. Life of Execution

The life of the execution and the Sheriff's levy is identified in **CBGO-005 Property Executions**. It is important to ensure the attorney extends the levy prior to each 60 day expiration period.

V. Proposed Advertising of Sale

After the debtor is served with the execution, proposed advertising is initiated within one month unless otherwise directed by the attorney.

A. Follow the Real Estate Sale Checklist (CB-024) to ensure requirements and timeliness are properly met.

Note: The checklist will also be used to record dates and amounts for proper collection of costs (fees, mileage, etc.) associated with collection against the execution. These costs must also be recorded electronically and added to the Civil Bureau case file and Civil Serve System at the time they are incurred.

B. Complete the Real Estate Attorney Review Request (CB-025) and Real Estate Proposed Advertising for Sheriff's Sale (CB-026) for proposed advertisement. Send both to the issuing attorney for advertising content approval. Attach legal description of property and specify a required return date to the Civil Bureau. Record date completed on case file and Civil Serve.

C. Once proposed advertising is signed off on by the issuing attorney and submitted to the Civil Bureau, forward the Daily Record Advertising Request (CB-027) and formal ad draft to the Daily Record for publishing. Record date completed on file and system case.

D. Once advertising proofs are returned by the "Daily Record". The following steps are taken:

1. The Deputy sends a Request for Review of Proofs and List of Creditors (CB-028) to the issuing attorney with advertising proofs enclosed and also requests a list of

creditors which must be received forty five (45) days prior to the sale date. Record date completed on file and system case.

2. The Deputy prepares a notice of sale for service on the judgment debtor which must be served in the same manner as a summons, and must have a certificate of service completed and retained with the service file until finalization of the sale itself.

3. The notice of sale must also be posted in three public buildings in the City of Rochester, and three public buildings in the applicable town or village. A service case for the postings is added to the execution system case with appropriate fees charged.

E. Prior to the sale date, the "Daily Record" will issue an affidavit of publication to be kept on file until the sale is finalized. In addition, the invoice for advertising must be recorded as a fee on the system case.

VI. Notification of Sale to Creditors

A. Upon receipt, timestamp the list of creditors provided by the attorney.

B. Prepare the Sales Notice to Creditors CPLR 5236 (CB-029) for each creditor. Sign and send by certified mail to each creditor. Prepare Proof of Mailing Sale Notice (CB-30) to be signed, and retained on file. The Civil Bureau must notify judgment creditor's attorney regarding any non-delivered mailings of the notice of sale, specifically by which creditor did not receive the notice. The attorney must provide written acknowledgement of this information to the Sheriff's Office.

C. Add cost and date of each certified mailing to the file folder and system fees.

VII. Real Estate Sale

Reference Property Executions (CBGO-05) for additional information.

A. Any time prior to the sale, any creditor may notify the Sheriff of an outstanding debt. Creditors with judgments entered before the date of the judgment that the Sheriff is collecting on, have the right to the first proceeds resulting from the sale if the Sheriff has been put on notice and receives a property execution.

B. A final figure payoff will be calculated to satisfy filing requirement of the judgment placed for collection at the Sheriff's Office, and then will be submitted to the Civil Sergeant for approval. The calculation will include the following amounts:

1. Judgment principal.
2. Interest to date of sale.
3. Filing and levy fees.
4. Service and mileage of execution.
5. Posting fees and service/mileage fees for Notice of Sale.
6. Costs for certified mailings.
7. Advertising fees.
8. Additional expenses and fees;
   a. Sheriff's fee for conducting sale.
   b. Sheriff's fee for preparation of deed.
   c. Fees for conducting the sale are added to the case on Civil Serve.
   d. Any other related Sheriff's expenses.
9. Five percent (5%) poundage on total for 1 through 8 above.
10. Prior creditor judgment payoff, (if any).

C. At the time of sale, the assigned Deputy will record all bidders' names, addresses and telephone numbers, and will assign a number to identify each bidder. A photo ID is required at the time of sale.

D. The Deputy conducting the sale announces the title of the action, the location of the property, and the issuing attorney's name, along with the verbal reading of the Notice of Sale. The Deputy also announces that the judgment debtor's rights, title and interest in said property is being sold with the sale subject to all prior liens and encumbrances.

E. The Deputy opens the sale for bidding. Each bid will be recorded by bidders name or identifying bidder's number.

F. After the sale is finalized, the successful bidder must indicate to whom the deed will be made out to.

G. A deposit in cash, bank certified check, or attorney check of ten percent (10%) of the successful bid is required at the time of sale unless otherwise is agreed to. The balance of the sale proceeds is due on the same day by 1400hrs (2:00 PM) of the sale date or a reasonable extension authorized by the Bureau Chief. If payment is not received, the Civil Bureau Chief will consult with Sheriff's attorney for a recommended course of action. Any decision will be reviewed with the Sheriff for final approval.

VIII. Preparation of Deed and Accompanying Documents

A. Using the original property execution and the data from the sale, fill out the Sheriff's Deed Form (located on the Civil Serve application), New York State form TP-584 "Combined Real Estate Transfer Tax Return" and NYS Form RP-5217 "Real Property Transfer" for signature and official seal in the same manner.

B. Attach a description of the property and the address in the space beneath, "described property". If the space is not sufficient, the description may be attached to the deed.

C. The Sheriff's signature must be obtained in addition to the Sheriff's seal on the deed and the NYS Form TP-584 "Combined Real Estate Transfer Tax Return".

D. After the deed is notarized, the following copies must be made:

1. Office File Copy
2. Purchaser's Copy
3. Attorney's Copy

E. The Civil Bureau must receive payment in full; prior to the issuance of the property Deed, etc. All internal accounting should be verified by the Clerk II and Senior Accountant prior to proceeding to the next step.

F. There is a fee for the deed to be collected at the time of sale. This amount must also be recorded on the file and system case.

G. The following completed package must be given to the purchaser or their attorney:

1. The deed and tax forms (TP-584 and RP-5217)
2. A copy of the affidavit of publication
3. The original certificate (proof) and Affidavit of Service Form:
   a. The notice of sale served on the debtor.
   b. The posting(s) of the notice of sale.

4. Original proof of mailing, accompanying notices of sale for each creditor
5. Copy of the Property Execution
6. Copy of the Levy and Demand
7. Copy of final figure letter
8. Certificate of service

IX. Postponement of Sale

A. If the attorney wishes to postpone a sale, a letter must be obtained from the attorney.

B. Fill out the Sale Postponement Notice (CB-032).

C. The postponement notices are sent to:

1. Judgment debtor.
2. All of the creditors and those who have requested such notification in writing, in person or by certified mail.
3. Anyone who may appear at the time and place which was previously set for the sale.

D. Fill out the Proof of Mailing Postponement Letter (CB-033) making sure to use the correct Postponement Proof of Mailing Information to record the actions. Prior to signing, make a copy, sign both the original and copy as they both must have an original signature.

E. Fees for the sales notices and certified mailings are charged accordingly to the system account and file worksheet.

X. Cancellation of Sale

A. If the sale is cancelled, the creditor's attorney must send a letter stating the reason for cancellation and provide payment of the Sheriff's poundage for the lesser of; the original judgment amount or the appraised value of the property.

Note: If the sale is cancelled due to a settlement, the Sheriff is due poundage from the settlement amount. It is important to require the attorney to provide the settlement terms and amount in writing to the Sheriff's Office to prevent any misunderstandings.

B. Calculate final figures to include all expenses and fees incurred to date to determine poundage due the Sheriff.

C. Contact the "Daily Record" by email Daily Record Ad Cancellation Request (CB-034) to formally request cancellation and an invoice for any services rendered prior to the cancellation.

D. Issue Sale Cancellation Notice (CB-035) to the attorney, creditors and any other parties who have requested such a notice. Prepare Proof of Mailing Cancellation Letter (CB-036).

Note: If a stay, appeal or bankruptcy notice is received by the Sheriff, refer to Property Executions (CBGO-05) for appropriate action.

E. Post a Sale Cancellation Notice (CB-035) in the same city and town locations as the original location of the Sales Notice.

XI. Distribution of Advanced Fee's & Sale Proceeds

A. Application of Advanced Fee's:

1. Posting and Service of Notice of Sale
2. Attend sale fee
3. Conduct sale fee
4. Deed Fee
5. Certified Mail Fee (for Notice of Sale to Creditor)
6. Posting fee and mileage for Notice of Sale
7. Daily Record advertising (payment for advertising)

B. Distribution of Sale Proceeds (from the sale price):

1. Homestead Act Exemption (If Applicable)
2. Sheriff's Poundage
3. Pre-paid Fee's back to judgment creditor's attorney (Levy Fee, Recording Fee, PX Service Fee, Mileage & Certified Return Fee)
4. Outstanding interest due judgment
5. Application to judgment principal
6. Any judgment creditor in line following priority rules
7. Any monies remaining are returned to judgment debtor

XII. Return of Property Execution

Refer to **CBGO-005 Property Executions.**

By Order of the Sheriff,

Todd K. Baxter