

DEFINITIONS-REAL ESTATE DOCUMENT TYPES

AFFIDAVIT - A written or printed declaration or statement of facts, made voluntarily and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.

Correction - An affidavit correcting an error in a prior instrument. The correction instrument explains the correction and references the prior instrument by recording information.

Estoppel - An instrument intended to prevent a party from asserting a legal right because of prior actions inconsistent with the assertion.

Identity - A document recorded by a party in order to provide constructive notice of his/her identity as different from another party with a similar or the same name.

Interest - A document providing constructive notice of particular property rights being asserted by a party. If the assertion is a fee simple or equitable ownership in real property, a Wisconsin Real Property Transfer Return form is required.

AGREEMENT - The writing or instrument evidencing the intention between two or more parties with respect to the effect upon their relative rights and duties of certain past or future facts or performances. The consent of two or more parties concurring respecting the transmission of some property, right, or benefits, with the view of contracting a mutual obligation. Examples of agreements include:

Holding Tank Agreement - The property owner agrees to adhere to a maintenance schedule for a waste water holding tank in order to obtain a permit from the county to allow its construction or continued use.

Nonpoint Agreement - An agreement between a landowner and the Wisconsin Department of Natural Resources (WDNR) that certain conservation installations that were partially funded by the state will be maintained.

Septic System Agreement - The property owner agrees to maintain a private septic system in order to obtain a permit from the county to allow its construction.

Well Agreement - Two or more property owners agree to maintain a private well that is located on one of the properties and provides water to all the properties in the agreement.

ANNEXATION - The act of attaching, adding, joining, or uniting one thing to another; generally spoken of the connection of a smaller or subordinate thing with a larger or principal thing. Term is usually applied with respect to land or fixtures as: the acquisition of territory or land by a nation, state or municipality; the legal incorporation of a town or city into another town or city.

ASSESSMENT - The imposition of a tax, charge, or levy, usually according to established rates and by a municipality, government, or district having such authority.

Special - A type of assessment unique to a particular area and/or project as opposed to a general assessment born by all the property owners in a certain taxation district.

AWARD - A written decision to monetarily compensate a party who has suffered loss due to the action or inaction of another, as determined by a deciding authority.

Compensation - A payment to make amends for the abridgment of rights or injury.

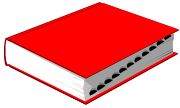
Condemnation - The payment for the taking of a person's property without the owner's consent.

Damages - A payment for the loss of value to property adjoining a property taken in condemnation proceedings.

BOUNDARIES - Every separation, natural or artificial, which marks the confines or line of division of two contiguous properties.

BURIAL SITE - Documents prepared by the State of Wisconsin Historical Society which locate human burial grounds and plots not included in a cemetery plat. State law prohibits their destruction.

BYLAWS - A document enumerating the regulations, ordinances, rules or laws adopted by an association or corporation or the like for its internal governance. Bylaws define the rights and obligations of various



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officers, persons or groups within the corporate structure and provide rules for routine matters such as calling meetings and the like.

CERTIFICATE - A document stating some fact, signed by the party certifying; a written assurance, or official representation, that some act has or has not been done, or some event occurred, or some legal formality has been complied with. Example of a certificate:

Certificate of Compliance - A certificate stating that conformance with stated conditions have been satisfied. This is used by the Wisconsin Department of Commerce (WDC) weatherization program to prove that standards for rental units have been met. May be used to satisfy a WDC stipulation.

CERTIFIED SURVEY MAP - A survey is performed according to State standards for the purpose of subdividing land into four or less parcels, or for the purpose of establishing property boundaries; it is represented graphically by a map drawn to scale, usually reviewed and approved by a local authority and presented for recording and filing. After this instrument is recorded, the land is henceforth described by the certified survey map number, lot number, volume and page where recorded, and name of the county.

CONDOMINIUM RESERVE ACCOUNT - Reserve account statements are required for most **residential** condominiums according to Wisconsin Statute 703.163. This document states whether or not the condominium will establish a reserve account for major repairs, and it is recorded by the declarant and/or condominium association. Condominium reserve account statements are optional for small condominiums (12 units or less).

CO-OP MEMBERS - Members of a cooperative. In Wisconsin, members of a cooperative may record an instrument naming the cooperative and listing all members.

CORPORATIONS - The instruments filed with appropriate governmental agency, such as the Secretary of State and as of July 1, 1996, the Wisconsin Department of Financial Institutions, that establish the corporation, modify its organization, and perhaps later, extinguish it. Examples:

Articles of Incorporation - The instrument which establishes the name, purpose, board of directors and mailing address of the corporation.

Change of Office/Agent - The instrument which gives notice of a change of the official office location and or agent for the corporation.

Corporate Name - The instrument which provides notice of the official name of the corporation and any modifications or other permitted usage of the name.

Dissolution - The instrument which provides notice that the organization is no longer in existence.

Merger - The combining of two or more corporations into one surviving corporation.

DECLARATION - A document by the owner of property which is recorded in order to establish a legal order upon the property, such as a condominium. In Wisconsin, condominium declarations are controlled by chapter 703.

DEED - A written instrument that, when executed and delivered, conveys title to or an interest (usually ownership) in real estate. Examples of deeds include:

Administrator's Deed - A deed signed by a person appointed by the court to administer the assets and liabilities of a decedent, as grantor.

Cemetery Deed - A deed for a cemetery lot.

Condominium Deed - A deed by which one person conveys to another absolute individual ownership of a unit, generally in a multi-family structure, based on a legal description of the airspace the unit actually occupies, plus an undivided interest in the ownership of the common elements, which are owned jointly with other condominium unit owners.

Executor's Deed - A deed signed by a person appointed by a testator to administer the disposition of property of a decedent, as grantor.

Guardian's Deed - A deed signed by a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person



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who, for defect of age, understanding, or self-control, is considered incapable of administering his own affairs.

Mineral Deed - A deed where only certain mineral rights of a property are conveyed from one party to another, often without affecting fee simple interest of the property.

Personal Representative's Deed - A deed signed by a person who manages affairs of another because of incapacity or death such as an executor or an administrator.

Quit Claim Deed - A conveyance by which the grantor transfers whatever interest he or she has in the real estate, if any, without warranties or obligations.

Railroad Deed - a deed where the grantor is a bona fide railroad company. In Wisconsin, these must be filed with the Department of Financial Institutions (DFI), Division of Corporate and Consumer Services, and either a certified copy or the original may be recorded with the local register of deeds. If the transfer fee was previously collected by the DFI, exemption #3 is used on the transfer form presented to the register of deeds. Other railroad documents such as mortgages, satisfactions, etc., are handled in a similar manner. (See s.190.11)

Sheriff's Deed - A document giving ownership rights in property to a buyer at a sheriff's sale, which is a sale held by a sheriff to pay a court judgment or in foreclosure of a mortgage.

Tax Deed - A deed given to the county as a result of non-payment of real property taxes. In Wisconsin, it is generally prepared by the county clerk or county corporation counsel.

Transfer at Death Deed (TOD) - A deed which does not convey real property when it is signed and delivered; the conveyance is not executed until the death of the grantor as per s. 705.15. Exempt from transfer fee per 77.25 (10m). The grantor retains full fee simple ownership until his or her death and then real estate passes in a non-testamentary and non-probate manner. **Also referred to as a Designation of TOD Beneficiary.**

Transfer on Death to Beneficiary (TOD-110) - Upon the death of the grantor of a TOD, the TOD-110 form may be used to give notice of the transfer, or a quit claim deed may be executed, an e-RETR is required, which would be exempt from transfer fee per 77.25 (11m).

Of Trust - A document that replaces or serves as a mortgage where legal title to real property is placed with a trustee to secure the repayment of a loan. In the event of a default, the trustee would convey the property to the lender or successful bidder. It differs from a mortgage because a mortgage is not a conveyance of real property. Also referred to as a Trust Deed; per s.77.21 (1) a Deed of Trust is a conveyance and requires a transfer return form.

Trustee's Deed - A deed which conveys real property to a trust to be administered by the trustee according to the terms of the Declaration of Trust.

Warranty Deed - A deed in fee simple where the grantor warrants title free and clear of any encumbrance. It is used in most real estate deed transfers and offers the greatest protection to the buyer.

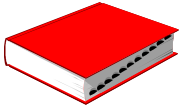
DISCLAIMER of TRANSFERS AT DEATH - An instrument in which a person who is a recipient of property under a transfer at death governing instrument, such as a deed, disclaims the property.

DISTRICT - One of the territorial areas into which an area of the county, or other municipality, is divided for judicial, political, electoral or administrative purposes. The State of Wisconsin may establish districts and grant them taxing authority. Examples:

Lake District - Wisconsin allows the residents surrounding major waterways to establish this type of district for conservation and preservation purposes.

School District - Wisconsin established school districts shortly after the government surveys were completed; many modifications to the original districts have occurred over the years; local property taxes provide major support for the districts.

Sewer District - Wisconsin allows these districts to be established for the purpose of handling community sewage. Property owners living in the district are assessed fees to construct and maintain the sewage system.



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Tax Incremental Finance District - Wisconsin allows the deferment of real property taxes in order to encourage revitalization or other development of certain geographic areas.

EASEMENT - The right to use the land of another for a specific purpose is granted. An easement appurtenant passes with the land when conveyed.

Conservation Easement - The grantor sells or donates development rights or other interests in real estate to a conservation society for the purpose of land preservation.

Driveway Easement - Describes the right of ingress and egress to a single residential or commercial property.

Ingress & Egress - Allows a party to enter and leave a parcel of land by traveling over the real property of another; a right to enter upon and pass through land.

Utility Easement - Establishes a pathway across a property owner's land which the owner is granting for use by a utility company for water, sewer, electrical, or gas lines or related construction facilities.

EXCHANGE ACCOMMODATION TITLEHOLDER – Party holding title to either the relinquished property or the replacement property in an exchange of property under Section 1031 of the Internal Revenue Code. Beneficial owner of such property for federal income tax purposes if the property is held in a “qualified exchange accommodation arrangement” (QEAA)

FARM PRESERVATION AGREEMENT - A document where a landowner agrees to implement and maintain conservation practices on agricultural land in exchange for property tax credits.

FEDERAL TAX LIEN - A general lien (on all personal and real property) made by the federal government against an individual or firm for non-payment of federal income taxes.

Please refer to the FTL chapter for additional information on federal tax liens.

FIRMS & PARTNERSHIPS - Documents relating to sole proprietorships and general partnerships which are recorded in the office of the register of deeds.

Firm Name - A document giving notice of the name of a new business, which is unincorporated and usually a sole proprietorship, operating in the county. Wisconsin statutes require this document to be recorded if the firm will be borrowing funds from a lending institution.

General Partnership - A document giving notice of the names and addresses of two or more individuals who are partners in a business enterprise operating within the county. It may also state the purpose, intent and terms of the partnership.

FOREST LAND, MANAGED - A document in which the grantor agrees to implement and maintain a forestry management plan developed by the Wisconsin Department of Natural Resources in exchange for property tax benefits.

HIGHWAY ACCESS - Notice of approval by a municipality, usually the county or state, for an access point or driveway at a particular location, onto a state or county highway.

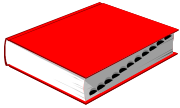
INDENTURE - An instrument executed by both grantor and grantee, containing reciprocal agreements, grants or obligations. May have the effect of a mortgage instrument.

Supplemental - An instrument recorded after the initial mortgage or indenture which updates the collateral and/or sets forth subsequent agreements or provisions.

JUDGMENT - The formal decision of a court upon the respective rights and claims of the parties to an action or suit. After a judgment has been entered and recorded with the clerk of courts, it usually becomes a general lien on the property of the defendant. Examples are:

Attachment Judgment - The “writ” of attachment is the document ordering the seizure of a debtor's personal and/or real property so as to secure the claim of a creditor. A record of the taking of a person's property into legal custody as a result of a judgment.

Bankruptcy Judgment - This judgment confirms the contention that the defendant has defaulted on his or her financial obligations; it is a general lien on all the defendant's property.



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Divorce Judgment - This judgment establishes the terms of settlement in a divorce; it determines how the properties are divided between the divorcing spouses.

Execution Judgment - The "writ" of execution is a legal order directing an official to enforce a judgment against the personal and/or real property of a debtor.

Final Judgment - The decision of the court determining the rights and obligation of the parties. May be used in probating an estate.

LAND CONTRACT - A contract for the sale of real estate wherein the purchase price is paid in periodic installments by the purchaser, who is in possession of the property. The vendor and vendee each have an interest in the property until final payment is made.

LANDMARK - A feature of the land such as a natural feature or improvement considered significant.

Historical Landmark - A feature of the land, usually an improvement, of historical significance; the landmark document is recorded to give notice of a special historical landmark designation.

Surveyor's Landmark - A feature of the land, monument, marker or other construction set up on the boundary line of two adjoining estates, to fix such boundary.

LEASE - Any agreement which gives rise to a relationship of landlord and tenant (real property) or lessor and lessee (real or personal property).

Limited Life Estate - A special type of lease agreement between a non-profit organization which owns an apartment building and an individual or couple who wish to lease a unit as though they are purchasing a condominium. Because the property is owned by the non-profit organization which has tax-exempt status, no property taxes are levied. The legal descriptions read, "part of lot 1, Country Wood," or "part of lot 1, CSM 3456," and the viewer would have to look at the document for the unit number since it is not officially part of the plat. Often the lease is for less than 99 years and in this case customer may state on the deed, "Not a conveyance as per 77.21(1)" so that a transfer return is not required.

LEASE & RENTS - The unrealized revenue from leases or rents from real estate may be used as collateral for a loan; it may be assigned to the mortgagee in an attachment to a mortgage or in a separate document.

LETTERS - A written instrument containing or attesting the grant of some power, authority or right.

Administration: A probate court order appointing a special administrator.

Conservatorship: A court order allowing a party to manage the affairs of another.

Domiciliary: A document issued by Probate Court naming an individual to administer a decedent's estate.

Guardianship: A court order appointing one to manage the affairs of a minor or incompetent.

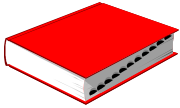
LIEN - A charge against or interest in property to secure payment of a debt, or performance of an obligation.

ERISA - (Employee Retirement Income Security Act) Liens in favor of the Pension Benefit Guaranty Corporation against all property and rights to property, real or personal, belonging to an employer that fails to pay amounts owed to the corporation. Filed like a Federal Tax Lien.

Interstate Child Support Lien - A lien against real property of the parent owing child support presented to the register of deeds for recording by a child support agency outside the State of Wisconsin. The legal description (and PIN by county ordinance) of the parent's property are required as well as provisions in 59.43(2m).

Medical Assistance Lien - A lien against real estate owned by an individual receiving medical assistance in Wisconsin.

Tax Deferral Lien - A lien against real estate as collateral for a loan for real property taxes. Issued by Wisconsin Housing & Economic Development Authority (WHEDA) and often used by elderly residents who have accumulated significant equity in their homes.



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LIS PENDENS - A recorded (or filed) legal document giving constructive notice that an action affecting a particular property has been filed in either a state or federal court. Latin for “case pending.”

Divorce - Notice that a divorce case is pending which may affect real estate.

Foreclosure - Notice that a foreclosure action is pending; the intent of the action is to extinguish all rights of the owners in order to sell the property to satisfy the lien against the property.

Street Vacation Notice given by a municipality that a road right of way is being abandoned.

MARITAL PROPERTY - Chapter 766 of Wisconsin Statutes establishes marital property as community property on all personal and real property gained during the period of the marriage; each spouse has an undivided one-half ownership interest in personal and real property. Chapter 766 also sets forth several instruments designed to modify marital property laws.

Marital Property Agreement - An agreement between spouses whereby the basic provision of each spouse having an undivided one-half ownership interest in personal and real property accumulated during the marriage, is modified according to the terms of the agreement.

Unilateral Statement - A spouse may execute a statement which classifies income as marital or individual property. After the execution date, (when the document is notarized) all new property is individual.

MEMORANDUM - An informal record, note or instrument embodying something that the parties desire to fix in memory by the aid of written evidence, or that is to serve as the basis of a future formal contract or deed. A brief written statement outlining the terms of an agreement or transaction.

MINERAL CLAIM - An interest in minerals in land, with or without ownership of the surface of the land. A right to take minerals or a right to receive a royalty. In Wisconsin, the register of deeds must provide customers with standard forms for this instrument as per S.706.057(7).

MISCELLANEOUS - Types of documents recorded very infrequently with the county register of deeds, such as only once or twice a year, are placed in this general category. The following are examples:

Bulkhead - The establishment of an area over a waterway which the Wisconsin Department of Natural Resources (WDNR) allows the petitioner to fill usually on a temporary basis, in order to complete a construction project. After completion of the project, the fill is usually removed, depending on the terms of the provisions in the instrument approved by the WDNR.

Cooperative - An association or enterprise owned by the members who contribute to the operations and receive profits jointly.

Farm Name - An owner of a farm may record a document setting forth its name and location within the county.

License - Permission to perform an act or series of acts on the land of another without vesting any title, interest or estate in such property. Such privilege is unassignable.

Life Estate - An instrument granting or reserving life tenancy to the beneficiary. Upon the death of the life tenant, the property will go to the holder of the remainder interest.

MORTGAGE - A pledge of real estate as security for the payment of a debt; also the document creating a mortgage lien.

Master - Standard mortgage documentation recorded by mortgage lenders in public land records that contains covenants, conditions, obligations, powers and other clauses of a mortgage, but does not pertain to a specific loan.

Note - A document detailing the specifics of the mortgage agreement, such as the payment schedule, signed by the mortgagor (borrower) and given to the mortgagee (lender) immediately prior to the signing of the mortgage instrument. Generally, the mortgage instrument, which contains general information, is recorded, not the note.

Security Agreement - A general term used to describe many different kinds of debtor-creditor relationships. When used to describe a type of real estate mortgage, it often refers to a second mortgage, home equity loan, or equity line of credit which is usually considerably less than a first mortgage loan on the same property.



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Short Form - Document that contains loan-specific information (e.g., borrower name, lender name, loan amount, description of property, etc.) and identifies the provisions of the master mortgage form that are being incorporated by reference.

NOTICE - A document providing information, and advice, or warning, intended to apprise a party of some proceeding in which the party's interests are or may be involved, or inform the party of some fact which is his/her right to know and the duty of the notifying party to communicate.

OFFICIAL MAP - A map of a municipality represented by that municipality to be the official map of the lands within and the boundaries of the municipality; usually drawn to scale and containing information regarding publication date or the most recent update.

OPTION - A contract made for consideration to keep an offer open for a prescribed period; a right, which acts as a continuing offer, given for consideration, to purchase or lease property at an agreed upon price and terms, within a specified time.

ORDER - A document containing the direction of a court or judge, or other governmental body, made in writing but not included in a judgment, which determines some point or directs some step in the proceedings.

Confirming Sale - A court order confirming the terms of a sale of property from an estate or guardianship.

Name Change - A court order setting forth the former name and new name to be used henceforth, of an individual who petitioned the court for such change. This document may be recorded with the register of deeds.

ORDINANCE - A rule established by an authority; a permanent rule of action; a law or statute. Usually used to designate the enactments of the legislative body of a municipality.

PATENT - The instrument by which a government grants public lands to an individual.

PLANS - A method of design or action, procedure, or arrangement for accomplishment of a particular act; also, a map or sketch of a specific land area showing various attributes of the land as actual or proposed.

PLAT - A map of a specific land area such as a town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, easements, etc., usually drawn to scale. The map is representative of a survey performed by a registered land surveyor. Most plats must receive approval by state and local government in order to be filed with the register of deeds. The plats become effective upon being recorded and filed.

Cemetery Plat - A map of a survey establishing boundaries, roadways, and individual burial plots of a cemetery.

Condominium Plat - A map of a survey establishing boundaries, common areas and individual units of air space as described in the condominium declaration. The condominium plat is different from other plats because it does not subdivide land.

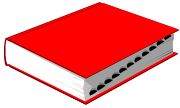
County Plat - A map of a division of land prepared in the same manner as required in Chapter 236, Wisconsin Statutes, except that all reviews are completed at the local level, in accordance with an adopted county ordinance.

Transportation Project Plat - A map of a survey showing public owned road right of way in connection with a public roadway.

Subdivision Plats - A map of a survey showing boundaries, roadways, easements, individual lots and their dimensions. May also contain restrictions of land use.

POWER OF ATTORNEY - An instrument in writing whereby one person, as principal, appoints another as agent and confers authority to perform certain specified acts on behalf of the principal.

Durable Power of Attorney - The Power of Attorney document contains the words, "this power of attorney shall not be affected by subsequent disability, incapacity or incompetence of the principal," or similar words; may state that the power of attorney shall become effective upon the incompetence of the principal.



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Limited Power of Attorney - Power is limited to acts or items and time periods specified in the instrument establishing the Power of Attorney.

Statutory Power of Attorney - The power of attorney document is drafted according to Wisconsin Statutes, 243.10, with or without the assistance of an attorney.

RESOLUTION - A formal expression of the opinion or will of an official body or a public assembly, adopted by vote.

Ratification - The confirmation of an act previously done either by the confirming party or another.

Street Vacation - A resolution passed by a local government to vacate a public road right of way.

RESTRICTIONS - A limitation on the use of real property, generally originated by the owner or subdivider in a deed or a separate document, and/or subdivision plat. The purpose behind the restrictions is usually to maintain or enhance the value of the land and surroundings.

RIGHT OF WAY - May be an easement which is a right belonging to a party to pass over land of another. May also be public property as in the case of a road right of way.

RIGHTS & INTERESTS - Documents which explain, affirm or modify a party's supposed rights and interests with regards to real property.

First Refusal - A contract made for consideration where the grantor promises to grantee the first opportunity to purchase the property when it is offered for sale. Grantee has the right to accept, reject or counter the offer made by grantor.

SATISFACTION - The discharge of an obligation by paying a party what is due on a mortgage, lien, note, contract or for a judgment; the document acknowledging the payment of a debt, such as a satisfaction of a mortgage.

STIPULATION - A material condition, requirement, or article in an agreement. An example is a Wisconsin Department of Workforce Development (DWD) weatherization program required stipulation document where the grantee of rental property promises to make improvements to bring it into program compliance. The document may be attached to a deed or recorded separately.

TERMINATION OF DECEDENT'S INTEREST (HT-110) - A document providing constructive notice of the termination of the decedent's interest in real property; the remaining joint tenant or survivor of the marriage then has full property rights. An informal method of probate established in chapter 867 of Wisconsin Statutes.

TIME-SHARE - A recurring periodic interest (frequently a particular week each year), usually in a recreational property. The property may be a single unit (a cottage), bare land (a campground), or most often a multi-unit project. It is possible to have both time-share and regular condominium units within the same project and the time share would often not replace the condominium but be added over top of the condominium and occupy the dimension of time. In Wisconsin, Chapter 707 governs and requires the recording/filing of a time-share instrument and plat. Effective December 1, 1999, all sales of timeshare property require a transfer return and fee as a condition to recording the instrument.

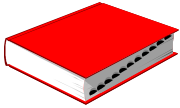
TRANSFER (STATUTORY) - Any instrument established by state law to transfer a fee simple, equitable, or other interest in real property. Generally used for informal probate.

By Affidavit - A probate instrument used for transferring small estates, both personal and also real property when the value is \$50,000 or less as per s. 867.03. The form PR-1831 is available online.

Of Property Interest - A probate instrument used in place of a personal representative's deed as per s. 865.202. The form PR-1818 is available online.

TRUST - A legal entity created by a grantor for the benefit of designated beneficiaries under the laws of the state and the valid trust instruments.

UCC-3 - A Uniform Commercial Code financing statement that attaches the real estate connected with the personal property lien. May be a type of "fixture filing" where business equipment is attached physically to the building structures.



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VARIANCE - A document evidencing permission to depart from the requirements of a zoning ordinance.

WAIVER - A document wherein the intentional or voluntary relinquishment of a known right is made.

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