



OFFICE OF THE COUNTY SHERIFF
Montgomery County, Maryland
Raymond M. Kight, Sheriff



GENERAL OPERATIONAL PROCEDURES

Subject: Attachments	Number: 3.24	Effective Date: 11/18/08
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Policy: All attachments, replevins, and sales executed by this Office will be conducted in accordance with the Maryland Rules and Office Regulations. **(74.2.1, 84.1.8)**

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I. Definitions

- A. Levy - an act of a Sheriff that brings property under the control of the court so that the property becomes available for the satisfaction of a money judgment.
- B. Judgment - any order of a court final in its nature.
- C. Money Judgment - a judgment determining that a specified amount of money is immediately payable to the judgment creditor. It does not include a judgment mandating the payment of money.
- D. Writ - a written order by a court and addressed to a Sheriff whose action the court desires to command to require performance of a specified act or to give authority to have the act done.
- E. Property - includes real, personal, mixed, tangible or intangible property of every kind.

II. Types of Attachments

- A. Writ of Execution

Directs the Sheriff to levy upon the property of the judgment debtor for the purpose of satisfying a money judgment.

B. Writ of Attachment (Attachment on Original Process/Attachment Before Judgment)

The purpose of this writ is to set aside or freeze the debtors' assets until the court can make a finding and enter a judgment. This writ is based on evidence that the debtor is about to abscond from the area or that the debtor is about to dispose of, conceal etc., *their* property to defraud or avoid collection of creditors and requires immediate action. The writ may direct the Sheriff to levy and leave or to seize and store the property of the debtor.

C. Writ of Replevin

Is based on a dispute of ownership to certain specific property. The writ will specifically describe and enumerate the property for replevin action. The Sheriff will seize property and place that property in the possession of the plaintiff or a third party.

D. Distress for Rent

If a tenant defaults in *their* payment of rent, the landlord has a remedy for its recovery by filing this action. This order directs the Sheriff to levy on all the goods on the leased premises.

E. Order of Seizure

The Sheriff is ordered to seize real property belonging to a defendant who has been charged criminally with the storing and selling of CDS.

III. Exemptions - Bankruptcy

A. Under Maryland law, certain property is exempt from attachment. Different types of writs have separate and distinct exemptions. These exemptions are contained in the Maryland Rules of Procedure.

B. Pursuant to Bankruptcy Code, 11 United States Code, §362, titled Automatic Stay, if a *bankruptcy* petition or an application is filed under this title by the debtor, it operates as an *automatic stay of all civil judicial proceedings against the debtor or the debtor's property (subject to limited exceptions)*. The basic purpose of bankruptcy is to give the debtor time to *discharge their debts or* formulate a plan of reorganization.

(1) Any further action by this Office will cease once the bankruptcy *filing* has been verified. The bankruptcy *filing* operates as a stay of any act to enforce a lien against property of the debtor, any act to collect or recover a claim against the debtor and/or the issuance or employment of process against the debtor.

(2) Deputies *may* be shown a copy of the *notice of filing a* bankruptcy proceeding. *This notice should* include the Bankruptcy *Court and case* number. The deputy *must* verify this information by calling the Bankruptcy Court. The deputy must obtain the bankruptcy number, date filed, and the chapter of the bankruptcy code under which it was filed.

- (3) *If the Bankruptcy Court lifts the automatic stay under Federal Rules of Bankruptcy Procedure, Rule 4001, no enforcement action may be taken until ten (10) days after the "lift stay" order has been entered, unless the Bankruptcy Court orders otherwise.*

IV. **Procedures**

A. General

- (1) Attachments directed to the Sheriff will be conducted by sworn deputies only.
- (2) All writs are to be inspected prior to execution to insure they are in proper order and provide the necessary instructions.
- (3) Deputies may only execute writs of attachment and replevin within Montgomery County.
- (4) The Sheriff shall endorse on the writ the exact hour and date of its receipt and shall maintain a record of actions taken.
- (5) Deputies will not keep any writ past the return date.
- (6) All property seized will be handled in accordance with the written directive, Evidence and Property Management.

- B. The actual process of executing these various writs will vary with the type of writ and the instructions from the plaintiff and/or the plaintiff's attorney. Deputies should refer to the Maryland Rules and the Attachment Section Special Operational Procedure.

V. **CALEA Standards**

74.2.1, **84.1.8**

VI. **Cancellation**

This written directive cancels and replaces *General Operational Procedure 3.24, effective 05/01/95.*

AUTHORITY:


Raymond M. Kight, Sheriff

11/18/2008