Subject Index for Judicial Spotlights

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Date	***Title & Case Name***	***Issue:***
2025		
October 2025	WI Court of Appeals Confirms UCC Safe-Harbor Notice Requirement Not Altered by WCA Deficiency Judgment Provision; *Birge* v. *Simplicity Credit Union*, 2025 WI App 105, 467 Wis. 2d 242, 904 N.W.2d 773	AT ISSUE: Whether the Wisconsin Consumer Act's deficiency judgment provision, Wis. Stat. § 425.210, which requires use of fair market value in calculating a deficiency, alters the Uniform Commercial Code's notice requirements under Wis. Stat. §§ 409.614 and 409.616.
March 2025	Wisconsin Court of Appeals Concludes NBA Does Not Preempt WCA Notice of Right to Cure Default Requirements; *Bank of America, N.A.* v. *Jean-Pierre Riffard*, 2023AP000125.	AT ISSUE: Whether the National Bank Act (NBA) preempts the Wisconsin Consumer Act's (WCA) Procedural Notice of Right to Cure Default Requirements to Bring an Action to Collect a Defaulted Credit Card Account.
2024		
June 2024	U.S. Supreme Court Held CFPB's Funding is Constitutional; *Consumer Financial Protection Bureau v. Community Financial Services Association of America, Ltd.* (No. 22-448).	AT ISSUE: Whether the Consumer Financial Protection Bureau's Funding Structure Violated the Appropriations Clause of the U.S. Constitution.
2023		
March 2023	Wisconsin Supreme Court Upholds Priority of Secured Creditor Under Receivership Rules; *The Atrium of Racine v. The Bank of New York Mellon Trust Company,* (2019 AP 1728 & 2019 AP 2063).	AT ISSUE: May an undocumented, unrecorded lien – created by judicial fiat – have priority over the Trustee's properly perfected first mortgage and security interest.

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2022		
February 2022	Wisconsin Supreme Court Affirms Longstanding Principle Regarding Foreign Country's Law; *Hennessy v. Wells Fargo Bank*, (2019 AP 1206).	AT ISSUE: Whether a foreign country's law is something that need be presented and proven before a circuit court as a question of fact verses it be considered de novo.
January 2022	Wisconsin Supreme Court Finds Garage is Part of Residence Used by Consumer as Dwelling under WCA; *Duncan v. Asset Recovery Specialists, Inc.*	AT ISSUE: Whether a parking garage should be considered a dwelling and whether the dwelling was used by the consumer as a residence under WCA repossession rules.
2021		
July 2021	Recent Wisconsin Supreme Court Cases Affirm DNR Authority to Place Permit Restrictions on Farms and High Capacity Wells; *Clean Wisconsin et. al v. Wis. Dep't of Natural Resources* (2021 WI 71), *Clean Wisconsin and Pleasant Lake Mgmt. Dist. v. Wis. Dep't of Natural Resources* (2021 WI 72).	AT ISSUE: Whether state agency actions under administrative law need be supported by explicit, not specific, statutory or regulatory authority and whether explicit authority is broad in scope.
2020		
November 2020	Wisconsin Court of Appeals Determines Parking Garage at Apartment Building Part of Residence Under WCA Repossession Rules; *Duncan v. Asset Recovery Specialists*.	AT ISSUE: Whether a parking garage should be considered a dwelling and whether the dwelling was used by the consumer as a residence under WCA repossession rules. **NOTE**: Also see January 2022.
2019		
February 2019	Supreme Court Issues Ruling on Koss Corp v. Park Bank Case Addressing Definition of Bad Faith Under	AT ISSUE: What is the standard of bad faith under Uniform Fiduciary act to then determine whether a bank can be held

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	Uniform Fiduciary Act; *Koss Corporation v. Park Bank*.	liable for actions of a third party fiduciary.
February 2019	Do Banks Have to Monitor Corporate Deposit Accounts to Make sure Officers Name on Those Accounts are Acting Lawfully; *Koss Corporation v . Park Bank*, (2019 WI 7).	AT ISSUE: What is the standard of bad faith under Uniform Fiduciary act to then determine whether a bank can be held liable for actions of a third party fiduciary.
2018		
March 2018	Bankruptcy Trustee May Clawback Funds, Safe Harbor for Financial Institutions Reserved; *Merit Management Group LP v. FTI Consulting Inc.*, 2018 WL 1054879.	AT ISSUE: Whether a transfer of funds to shareholders was protected by Bankruptcy Code safe harbor provisions from clawback by a bankruptcy trustee.
March 2018	The Horizon Bank v. Musikantow Case: Unexpected Contract Interpretation Means Banks Need to Revisit Their Guaranty and Stipulation Language; *Horizon Bank, NA v. Marshalls Point Retreat LLC*.	AT ISSUE: Based on contract language, court decided how a bank's stipulation and guarantee language would determine the amount to be credited to the guarantor's obligation as a result of the sale of the borrower's residence.
2017		
September 2017	Court Dismisses Most of CFPB's Claims in TCF Bank Lawsuit;	AT ISSUE: Whether a bank must consider its verbal explanations of written disclosures regarding Regulation E opt-in disclosure and notice.
August 2017	Another Court Declares Bank UCC Filing Ineffective, This Time for Incorrect Location of Debtor's Name on UCC Filing Form; *Bruce A. Lanser, Trustee v. First Bank Financial Centre*, 568	AT ISSUE: Whether a bank's UCC Financing Statement is ineffective because the name of an individual debtor was placed on the organization debtor line rather than on the individual debtor line of the UCC Financing Statement.

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	B.R. 797.	
April 2017	Wisconsin Supreme Court Enforces Jury Waiver Provision in Commercial Loan Note; *Taft Parsons, Jr. v. Associated Banc-Corp* (2017 WI 37).	AT ISSUE: Whether a jury waiver provision in a commercial loan is enforceable against the borrower under Wisconsin law.
2016		
July 2016	Wisconsin Supreme Court Clarifies that Builder's Risk Policy Benefiting Construction Lender Does not Terminate When Homeowner's Policy is Put in Place; *Fontana Builders, Inc. et al. v. Assurance Company of America*, 2016 WI 52.	AT ISSUE: Whether a homeowner's policy on property under construction put in place prior to the home being completed and sold was "permanent property insurance" under a builder's risk policy which protects the developer and construction lender.
May 2016	Unpaid Previously Assessed Condominium Fees do not Survive Foreclosure of the Property; *Walworth State Bank v. Abbey Springs Condominium Association, Inc*.	AT ISSUE: Whether unpaid condominium association dues that were terminated by foreclosure can be reinstated and required to be paid by the new owner before having access to the condominium facilities.
May 2016	Federal Court Approves Practice that Allowed a Wisconsin State Bank to Take and Perfect Assignment of Seller's Interest in Land Contract for Collateral Purposes; *Blanchards, Debtors, and Liebzeit, Trustee in Bankruptcy v. Intercity State Bank*, Case No. 14-C-1527.	AT ISSUE: (1) Whether a seller's interest as a vendor under a land contract is a proper subject of a mortgage to secure the bank's loan to the seller; (2) whether the collateral description in the WBA Real Estate Mortgage used by bank is broad enough to include the seller's interest in the land contract as additional collateral even without a description of the specific land contract in the mortgage; and (3) whether under Wisconsin law is a mortgage recorded in the real estate records effective for a bank to perfect a lien on a seller's interest in a land contract rather than by filing a UCC Financing Statement with

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		DFI.
February 2016	Court Says "Suspicion" of Improperly-Pledged Collateral Reduces Creditor's Position in Bankruptcy; *In re Sentinel Management Group*.	AT ISSUE: Whether a creditor who is on "inquiry notice" that collateral for loans had been unlawfully pledged forfeits its position as senior secured creditor in bankruptcy case.
2015		
July 2015	Junior Mortgage Holders' Interests Protected by U.S. Supreme Court; *Bank of America v. Caulkett*; *Bank of America v. Toledo-Cardona*.	AT ISSUE: Whether a debtor in a Chapter 7 bankruptcy proceeding may void a junior mortgage lien under the Bankruptcy Code when the debt owed on the senior mortgage lien exceed the current value of the collateral if the creditor's claim is both (a) secured by a lien on the property; and (b) allowed under the Bankruptcy Code.
July 2015	U.S. Supreme Court Affirms Disparate-Impact Claims May Be Brough Under Fair Housing Act; *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*	AT ISSUE: Whether disparate impact claims may be brought under the Fair Housing Act of 1968.
March 2015	Court of Appeals Affirms DFI Complaint; *Morgan Drexen, Inc. v. Wisconsin Department of Financial Institutions (Division of Banking)*.	AT ISSUE: Whether Hearing Examiner's Interpretation of Statutes was Unreasonable or that Disgorgement was in Error.
March 2015	Circuit Court May Order Sale of Abandoned Property; *Bank of New York v. Carson*.	AT ISSUE: When a court determines a property abandoned whether sec. 846.102, Stats. authorizes the court to order a mortgagee to bring the property to sale after the redemption period.

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March 2015	Wisconsin Supreme Court Exempts Certain Policies From the Notice/Prejudice Statutes; *Anderson v. Aul*, 2015 WI 19.	AT ISSUE: Whether liability policies issued on a "claims made and reported" basis are subject to the notice/prejudice statutes.
March 2015	U.S. Supreme Court Upholds Department of Labor's Interpretive Rule that "Typical MLOs" are Non-Exempt; *Perez v. Mortgage Bankers Association.*	AT ISSUE: Whether mortgage loan officers are exempt or non-exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).
2014		
July 2014	Wisconsin Supreme Court Approves Business Practice Followed in Wisconsin in Sale of Notes and Mortgages; *Dow Family, LLC, v. PHH Mortgage Cooperation and US Bank. N.A., 2014 WI 56.*	AT ISSUE: Whether a mortgage securing a note sold to a purchaser is automatically assigned to the purchaser of the note under the "mortgage follows the note rule" Doctrine of Equitable Assignment.
March 2014	Lender Wins $17 Million Lawsuit In Illinois Against Guarantor; *Inland Mortgage Capital Corporation v. Chivas Retail Partners, LLC, et. al.*	AT ISSUE: Whether guarantors are or are not beneficiaries of anti-deficiency statutes which are intended to benefit borrowers.
January 2014	Wisconsin Court of Appeals Case Makes Having Both Lender Name and Address on Real Property-Related Filing Documents A Best Practice; *Juneau County v. Associated Bank, N.A., et. al.*	AT ISSUE: Whether county government in a tax lien foreclosure matter is required to search outside of the records pertaining to the affected property in the office of the register of deeds in order to obtain the mortgage holder's address for purposes of providing direct notice of foreclosure to the mortgage holder.
2013		
July 2013	Wisconsin Supreme Court Dismisses Guarantor	AT ISSUE: Whether a guarantor may raise derivative claims in

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	Claims Against Wisconsin Bank; *Park Bank v. Roger E. Westburg and Sandra L. Wesburg.*	defense to an action seeking payments under a guarantor.
2012		
Jan. 2012	Wisconsin Court of Appeals Case Affects Guarantors' Obligations to Banks; *McFarland State Bank v. Sherry, et al.*	AT ISSUE: How banks should pursue remedies against defaulting mortgages.
2011		
Oct. 2011	Wisconsin Supreme Court Rules Sale of Secured Creditor's Collateral in Chapter 128 Receivership Requires Creditor's Consent; *BNP Paribas as Agent v. Olsen's Mill, Inc*.	AT ISSUE: Whether the sale of a secured creditor's collateral in a Chapter 128 receivership requires the consent of the secured creditor.
Oct. 2011	Wisconsin Bank Avoids Payment of Illegal Tax in Wisconsin Court of Appeals Case; *Baylake Bank v. Fairway Properties of Wisconsin, LLC, City of Waupaca and others*.	AT ISSUE: Whether damages due under a development agreement for the failure of the borrower to perform constitutes delinquent property taxes with priority over bank's mortgage.
Feb. 2011	Wisconsin Supreme Court Finds Integration Clause in WBA Term Credit Agreement Unambiguous; *Town Bank v. City Real Estate Development, LLC*.	AT ISSUE: Whether a provision in the Term Credit Agreement (TCA) known as an integration clause precludes consideration of a commitment or other prior understanding to change the terms of an TCA.

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2010		
Oct. 2010	Bank's First Lien Perfected Security Interest Loses to Secret Livestock Lien; *Premier Community Bank v. Roger Schuh and Schuh Cattle Company, LLC*.	AT ISSUE: Whether a "keeper lien" for pasturing or keeping animals for another person is deemed to be a "possessory lien," and as such whether it has priority over a security interest in the livestock perfected by filing.
Aug. 2010	Wisconsin Supreme Court Decision on Foreclosure and Rights and Obligations of Guarantors in Foreclosure Actions; *Bank Mutual v. S.J. Boyer Construction Co*.	AT ISSUE: Whether under Wisconsin's foreclosure statutes, a mortgagee, by electing to foreclose on a mortgage under the shortened redemption period provided by statute, loses the right to obtain a judgment against a guarantor of payment of the underlying debt.
Jun. 2010	Supreme Court Denies Petition to Review Case Involving Evidentiary Treatment of Credit Card Statements; *Palisades Collection, LLC v. Jackie C. Kalal*.	AT ISSUE: Whether debtor's monthly computer generated credit card statement of an originating bank can be relied upon as evidence of debt by party who purchased the credit card debt obligation.
2009		
Jan. 2009	Court of Appeals Rejects Judgment Against Guarantor Where Mortgage Lender Had Waived Deficiency Judgment in Exchange for Shorter Redemption Period; *Bank Mutual v. S. J. Boyer Construction Co*.	AT ISSUE: Whether a mortgage lender who waives the right to a deficiency judgment in exchange for a shorter redemption period cannot seek a deficiency judgment against other persons responsible for the loan, such as guarantors. **NOTE**: Also see August 2010.
Jan. 2009	Tax Court Holds For the IRS in Sub S Bank Interest Disallowance Case; *Vainisi v. Commissioner of*	AT ISSUE: Whether calculating taxable income pursuant to Treasury Section 291 Interest Disallowance Rule applies to a

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	Internal Revenue Service.	qualified subchapter S subsidiary bank's qualified tax-exempt obligations (QTEOs).
2008		
Mar. 2008	Wisconsin Courts Continue to Crack Down on Non-Competition Agreements; *Sysco Food Services of Eastern Wisconsin, LLC v. Ziccarelli*.	AT ISSUE: Whether a non-competition agreement is enforceable.
2007		
2006		
Aug. 2006	Wisconsin Supreme Court Rules For Banks In Dispute with Subcontractor; *Hoida, Inc. v. M&I Midstate Bank and McDonald Title Company, Inc*.	AT ISSUE: Whether a lender and its disbursing agent are liable to a subcontractor who suffers losses when neither the lender nor the title company had a contractual relationship with the subcontractor or any special relationship creating a higher than normal level of duty.
2005		
Dec. 2005	Guardian May Stand in Shoes of Joint Owner; *Matter of Guardianship of Emma W.: Family Services, Inc. of Barron County v. Paul W. And Gary W.*	AT ISSUE: Whether guardian can act on joint account held by ward and another person.
Nov. 2005	Unauthorized Self-Dealing By POA Voids Transactions With Bank; *Losse v. Marine Bank.*	AT ISSUE: Whether POA's unauthorized self-dealing transactions with a bank was enough to void the transactions

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		with the bank.
Oct. 2005	Removal of Corporate Deposit Account Signatory Upheld; *Oda v. Port Washington State Bank*.	AT ISSUE: Whether the bank can remove authorized signer from business deposit account upon notification of change in accordance with bank's depository declaration.
Aug. 2005	Decision Against Trustee Upheld, but Scope of Liability Narrow; *Hatleberg v. Norwest Bank Wisconsin* (now known as Wells Fargo Bank).	AT ISSUE: Whether trustee has a duty to review a trust instrument it did not draft to ensure it was effective on achieving the customer's objectives, and whether the trustee has a duty to notify the customer upon discovering that the trust is defective.
2004		
Oct. 2004	Wisconsin Court Rules For Banks In Dispute with Subcontractor; *Hoida, Inc. v. M & I Midstate Bank and McDonald Title Company, Inc.*	AT ISSUE: Whether a lender and its disbursing agent owe any duty to a subcontractor who suffered loss. **NOTE**: See August 2006.
Jul. 2004	Do Not Call Circuit Court Decision.	AT ISSUE: Whether Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP) administrative code expands the statutory current client exemption related to Wisconsin's "do not call" to allow solicitation for calls promoting the sales of the "type" originally promoted.
Mar. 2004	Breach of Fiduciary Duty While Managing an Irrevocable Trust; *Hatleberg v. Norwest Bank Wisconsin, n/k/a Wells Fargo Bank*.	AT ISSUE: Whether trustee has a duty to review a trust instrument it did not draft to ensure it was effective in achieving the customer's objectives, and whether the trust has a duty to notify the customer upon discovery that the trust is defective. **NOTE**: See August 2005.

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Mar. 2004	Dragnet Clause in Mortgage Upheld by Court; *Mitchell Bank v. Schanke*.	AT ISSUE: Whether the dragnet clause used in bank's mortgage was valid and enforceable.
Feb. 2004	Blanket Bond Coverage; *Tri City National Bank v. Federal Insurance Company*.	AT ISSUE: Whether a standard fidelity bond issued to a bank covers losses resulting from dishonest or fraudulent acts of employees where the bank did not suffer any direct loss as a result of such acts.
Feb. 2004	Charitable Organizations and the Property Tax Exemption; *Columbus Park Housing Corporation v. City of Kenosha*.	AT ISSUE: Whether a nonstock, nonprofit Wisconsin corporation could be exempt from certain real property taxes under Wis. Stat. §70.11(4) if it could not meet the lessee identity requirement under that same statute.
2003		
Jul. 2003	Michigan Supreme Court Declares Charging Fee for Document Preparation Not Unauthorized Practice of Law; *Dressel v. Ameribank*.	AT ISSUE: Whether a lender charging a fee for the preparation of legal documents constitutes the unauthorized practice of law.
2002		
Oct. 2002	Mortgage Securing Past Debt Declared Unenforceable; *Mitchell Bank v. Schanke*.	AT ISSUE: Whether a mortgage clause securing past debt was unenforceable because the mortgage did not identify the amount of the past debt. **NOTE**: See March 2004.
Aug. 2002	UPDATE! Bank Practice of Debiting Accounts Consisting of Social Security And SSI Benefits To Pay Overdrafts Declared Illegal By Federal Court Is	AT ISSUE: Whether bank is prohibited from using electronically deposited Social Security Benefits to cover overdrafts.

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	Reversed; *Lopez v. Washington Mutual Bank*.	
Jun. 2002	Bank Practice of Debiting Accounts Consisting of Social Security and SSI Benefits to Pay Overdrafts Declared Illegal by Federal Court; *Lopez v. Washington Mutual Bank.*	AT ISSUE: Whether bank is prohibited from using electronically deposited Social Security Benefits to cover overdrafts. **NOTE**: See August 2002.
2001		
Oct. 2001	Application of UCC to Embezzlement Case; *United Catholic Parish Schools of Beaver Dam Educational Association v. Card Services Center and First Financial Bank.*	AT ISSUE: Whether a common law theory of conversion should prevail over the provisions of the Uniform Commercial Code (UCC) as it relates to negotiable instruments.
May 2001	UPDATE!! Ability to Foreclose on a Second Mortgage; *Bank of Sun Prairie v. Marshall Development Company, et. al*.	AT ISSUE: Whether a bank's foreclosure on a first mortgage and a deficiency judgment at the time prevents the bank from foreclosing on the second mortgage which secures the loan.
Mar. 2001	Ability to Foreclose on Second Mortgage; *Bank of Sun Prairie v. Marshall Development Company et. al.*	AT ISSUE: Whether a bank's foreclosure on a first mortgage and a deficiency judgment at the time prevents the bank from foreclosing on the second mortgage which secures the loan. **NOTE**: See May 2001.
Feb. 2001	Applicability of Articles 3 and 4 of the Uniform Commercial Code (UCC); *Weber, Leicht, Gohr & Associates v. Liberty Bank and Kansas Bankers Surety Company.*	AT ISSUE: Whether customer is precluded from holding the bank liable for damages that the customer could have prevented by examining the statements as required by the UCC.

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2000		
Dec. 2000	Disclosing Debt Information to Credit Bureau; *Turner v. Blackhawk State Bank*.	AT ISSUE: Whether bank violated the Wisconsin Consumer Act (WCA) by disclosing debt information to a credit bureau that was disputed by the consumer without continuing to disclose the dispute to the credit bureau.
Nov. 2000	Lender Liability Case; *Bank One Milwaukee, NA v. Williams Bay Trading Co., Ltd.*	AT ISSUE: Whether bank's actions and negotiations violated the duty of good faith.
Nov. 2000	Truth-in-Lending Case; *Polk v. Crown Auto*.	AT ISSUE: Whether the car dealer violated a dual requirement under Truth-in-Lending to both give disclosures and give them in a form the consumer can keep "before" consummation (or signing).
Aug. 2000	Wisconsin Taxation of Dividends Paid by Federal Home Loan Banks in Pre-1993 Years; *Wauwatosa Savings Assn. v. Wisconsin Dept. of Revenue*.	AT ISSUE: Whether a Savings Association should be included in the type of businesses that are eligible for refund of Wisconsin taxes paid by them on dividends they had received from out of state corporations during certain years.
1999		
Dec. 1999	Federal Preemption Case; *WFS Financial Inc., v. Richard L. Dean, Secretary, Wisconsin Department of Financial Institutions, et al.*	AT ISSUE: Whether an operating subsidiary of a federally chartered savings bank is immune from the laws of the state in which the subsidiary is operating.
Oct. 1999	*Bank One, Utah v. Guttau*.	AT ISSUE: Whether the federal National Bank Act preempted Iowa's state law regarding restrictions on the operations and

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		advertising of ATMs.
Feb. 1999	Franchise Tax Case; *American Family Mutual Insurance Co. v. Department of Revenue*.	AT ISSUE: Whether interest income derived from "tax exempt" state obligations is subject to the imposition of an income tax; and whether it is subject to the imposition of a franchise tax.
Feb. 1999	Lender Liability Case; *Bank One Milwaukee, NA v. Williams Bay Trading Co., Ltd.*	AT ISSUE: Whether bank's actions and negotiations violated the duty of good faith. **NOTE**: See November 2000.
1998		
May 1998	Bank Successful in Negligence Action Involving Forged Checks; *Borowski v. Firstar Bank Milwaukee N.A.*.	AT ISSUE: Whether bank's fourteen day period set forth in the bank's contract is of a reasonable period when the customer is to notify the bank of unauthorized signatures or alterations on a statement.
Mar. 1998	*Lincoln Savings Bank, S.A. v. Wisconsin Department of Revenue.*	AT ISSUE: How to tax the amount that institutions had set aside to reserve against possible bad debt losses.
Feb. 1998	Wage Lien Case; *Pfister v. Milwaukee Economic Development Corporation and First Bank (N.A.)*.	AT ISSUE: Whether an employee's wage lien for unpaid wages has priority over all other liens, including pre-existing security interests.
1997		
Mar. 1997	*Schmidt v. Waukesha State Bank and Larson.*	AT ISSUE: The enforceability of a real estate mortgage to secure a future of a real estate mortgage to secure a future advance made by a bank to a married Wisconsin resident

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		without the knowledge or consent of the other spouse.
1996		
Jul. 1996	Wisconsin Bankers Receive Warning on Renewal Note Documentation in Court Decision; *River Bank of De Soto v. Fisher and Duncan*.	AT ISSUE: Whether certain procedures and a renewal note only signed by one of two signers is binding on the party who did not sign the renewal note.
Jun. 1996	*Smiley v. Citibank*.	AT ISSUE: Whether late fees were "interest" under Section 85 of the National Bank Act.
Jun. 1996	*American Deposit Corp. v. Schacht*	AT ISSUE: Whether a state insurance regulator may bar a bank from selling the "Retirement CD".