2798A UNIFORM VOIDABLE TRANSACTIONS: TRANSFER OR OBLIGATION VOIDABLE AS TO PRESENT OR FUTURE CREDITORS – WIS. STAT. § 242.04(1)(a): SPECIAL VERDICT

Question 1

Did (plaintiff) have a right to payment from (debtor)?

ANSWER: _____
Yes or No

If you answered "yes" to question 1, then answer question 2. If you answered no, stop here. Do not answer any other questions.

Question 2

Did (debtor) (transfer property) (incur an obligation) to (defendant)?

ANSWER: _____
Yes or No

If you answered "yes" to question 2, then answer question 3. If you answered no, stop here. Do not answer any other questions.

Question 3

Did (debtor) (transfer the property) (incur the obligation) with the intent to hinder, delay, or defraud one or more of (his) (her) (its) creditors?

ANSWER: _____
Yes or No

If you answered "no" to Question 3, do not answer any further questions. If you answered "yes," and a transferee defendant asserts an affirmative defense, answer Questions 4–5.

[On Questions 4–5, (defendant) bears the burden of proof.][1]

Question 4

Did (defendant) (name of third party) receive the property from (debtor) in good faith?[2]

ANSWER: _____
Yes or No

Question 5

Did (defendant) (name of third party) receive the property for a reasonably equivalent value?

ANSWER: _____
Yes or No

NOTES

1. Chapter 242 does not expressly define the term "good faith." However, Wis. Stat. § 242.08(4) uses the term "good-faith transferee" as an affirmative defense to the avoidance of a fraudulent conveyance.

Although the Committee was unable to locate any citable opinions specifically defining "good faith" within the context of Chapter 242, several Wisconsin recording-act cases provide useful guidance. In Grosskopf Oil, Inc. v. Winter, 156 Wis. 2d 575, 584, 457 N.W.2d 514 (Ct. App. 1990), the court held that a purchaser or mortgagee acts in good faith when lacking notice of existing rights in the property. Similarly, in Bump v. Dahl, 26 Wis. 2d 607, 613, 133 N.W.2d 295 (1965), the Wisconsin Supreme Court characterized a good-faith purchaser as one without notice of prior interests in the land. Reinforcing this principle, Kordecki v. Rizzo, 106 Wis. 2d 713, 719–20, 317 N.W.2d 479 (1982), explicitly defined, a good-faith purchaser as one "without notice, constructive or actual, of a prior conveyance."

It is important to note that each of these cases addresses whether a subsequent purchaser or mortgagee took title "in good faith" under Wisconsin's race-notice statutes, Wis. Stat. §§ 235.49 and 706.08, thereby gaining priority over an earlier, unrecorded interest. The inquiry in these cases focuses on the three traditional sources of notice—open possession (Bump), tenant-in-possession (Grosskopf), and recorded litigation documents (Kordecki)—rather than on the existence of a prior, unrecorded conveyance.

See Wis-JI Civil 2797A for a model definition "good faith."

2. See Wis. JI-Civil 200.

COMMENT

This instruction and comment were approved in October 2025.

This special verdict is based on Wis JI-Civil 2792A Uniform Voidable Transactions: Transfer or Obligation Voidable as to Present or Future Creditors and Wis JI-Civil 2797A Affirmative Defense: Good Faith. It is intended only as a model and may need to be modified depending on the facts of the case.

Wisconsin Statute § 242.07 provides the remedies available to creditors. Although compensatory damages are not explicitly mentioned within this subsection, § 242.07(1)(c) provides several equitable remedies available under applicable principles of equity and procedural rules, including granting any other relief that the circumstances may require.

Monetary damages are not explicitly referenced in § 242.07. The Committee takes no position as to whether the catch-all provision under § 242.07(1)(c)3 encompasses the awarding of such damages.