

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
SCOTT F. SCHROEDER,	:	ADOPTING STIPULATION
RYCZEK-LARSEN BROTHERS,	:	
CUDAHY FUNERAL HOME,	:	90 FDR 008
	:	
RESPONDENT	:	

The parties to this proceeding for the purpose of Wis. Stats., sec. 227.53 are:

Scott F. Schroeder
3774 E. Underwood Ave.
Cudahy, WI 53110

Ryczek-Larsen Brothers
Cudahy Funeral Home
Independent Mortuary Corp.
3774 E. Underwood Ave.
Cudahy, WI 53110

Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

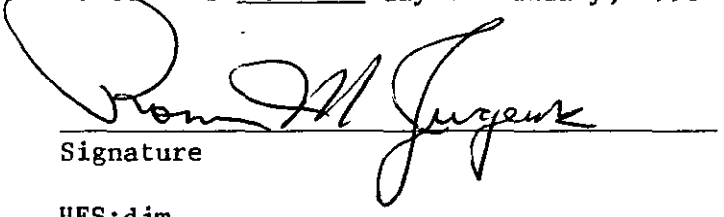
The state of Wisconsin, Funeral Directors Examining Board, having considered the Stipulation Agreement annexed hereto, of the parties, in resolution of the captioned-matter, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered pursuant to jurisdiction and authority granted to the board in secs. 445.13, Stats., and RL 2.12, Wis. Adm. Code, that the Stipulation Agreement annexed hereto, filed by complainant's attorney, shall be and hereby is incorporated, made and order the Final Decision and Order of the state of Wisconsin, Funeral Directors Examining Board.

Let a copy of this order be served on respondents by certified mail.

Dated this 26th day of January, 1993.


Signature

HES:djm
DOEATTY-2033

Handwritten text, possibly a signature or date, located in the top left corner.

Handwritten text, possibly a date or initials, located in the top right corner.

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
 :
 :
 SCOTT F. SCHROEDER, : STIPULATION
 RYCZEK-LARSEN BROTHERS, :
 CUDAHY FUNERAL HOME, : 90 FDR 008
 :
 :
 RESPONDENT :

Respondents Scott F. Schroeder (Schroeder), and Ryczek-Larsen Brothers, Cudahy Funeral Home (establishment), and complainant's attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matter, hereby stipulate and agree as follows:

1. This Stipulation shall be submitted to the Funeral Directors Examining Board (Board) for approval and disposition of this matter. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by any of the provisions of this Stipulation.

2. Respondents have been advised of their Rights to Public Hearing on each and every allegation of the complaint, but hereby freely and voluntarily waive their rights to Public Hearings in this matter on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondents further agree to waive any appeals of the Board's Final Decision and Order adopting the Stipulation agreement.

3. Respondent Scott F. Schroeder (Schroeder), 3774 East Underwood Avenue, Cudahy, Wisconsin 53110, is and was at all time material to the complaint licensed as a funeral director and has been so licensed under the provisions of Ch. 445, Wis. Stats., since March 7, 1977, and employed under and d/b/a Ryczek-Larsen Brothers Cudahy Funeral Home (establishment).

4. Respondent Ryczek-Larsen Brothers Cudahy Funeral Home (establishment), 3774 East Underwood Avenue, Cudahy, Wisconsin 53110, is and was at all time material to the complaint licensed as a funeral establishment, and has been so licensed under the provisions of Ch. 445, Wis. Stats., since June 3, 1974. Respondent Schroeder was and is the funeral director in charge of the establishment.

5. In February 1990, the City of Cudahy, Wisconsin Street Workers complained to their superiors regarding Respondents waste disposal of "Potentially infectious waste" in normal everyday trash. Accordingly, Assistant Superintendent of Streets, Greg Loferski, corresponded with Respondents, along with submitting copies of the ordinance governing waste, and requested compliance, Exhibit "A" attached hereto.

6. Thereafter, Carol Wantuch (Wantuch), RN, Public Health Administrator of the Cudahy Health Department, telephoned Respondents and spoke to Respondent Schroeder about trash collectors finding "bloody dressings and tubing" in the trash behind Respondent's establishment, Exhibit "B" in pertinent part.

7. Respondent Schroeder "assured" Wantuch that the problem would be handled and that the company owning the establishment was investigating special options regarding the disposal of infectious waste, Exhibit "B" supra, in pertinent part.

8. However, and thereafter, on about March 19, 1990, Wantuch received a telephone message from the city's Department of Streets of finding "an orange body bag with a tag (with a person's name on it)," in a trash can behind the Establishment Respondent.

9. On March 20, 1990, Wantuch received a telephone call from Assistant Superintendent of Streets, Loferski, and made arrangements to, and did meet Loferski behind the Establishment Respondent at about 10:30 a.m.

10. Upon their arrival behind the establishment, they observed four (4) uncovered trash cans on a wooden pallet behind the funeral home's garage; "there was a rubber glove laying on the pallet. The first trash can contained what appeared to be a white plastic body bag. The second can was completely full with a thin - see through plastic garbage bag containing red stained gauze, plastic bottles, etc."

11. Becoming extremely concerned and further distressed that those practices continued despite her conversations with Respondent Schroeder, Wantuch reviewed Cudahy city Ordinance No. 1480, and talked to city attorney, James Boren, who indicated that the City Attorney would issue an ordinance citation to Respondent.

12. On about March 27, 1990, City Attorney Boren issued a complaint affidavit citation, complaint #002313, Exhibit "C" - attached hereto, charging Respondent Schroeder with violating ordinance No. 1480, "Disposing potentially infectious waste with normal everyday trash."

13. Respondent pled no guilty to the violation, but was found guilty on about May 18, 1990, and was fined with a suspended sentence, Exhibit "C" supra in pertinent part. During the proceeding, Respondent Schroeder led to the court to believe that the Funeral Establishment had a contract to dispose of the medical waste with a waste management company to pick up their trash, which was never substantiated and was false. Se Exhibit "D" attached hereto, letter dated October 25, 1990 from Respondent Schroeder to Carol Wantuch indicating:

"the Ryczek-Larsen Brothers Funeral Home does not employ or contract and (sic) outside agency to dispose of waste as defined in infectious waste ordinance. Instead, we transport the waste material to one of our other funeral homes which has an incinerator. This is done by our funeral home personal (sic) only.

In view of the funeral home's policy, would you please advise us to whether or not we still need to contract on outside disposal service."

14. Subsequently and again, at about 10:30 a.m., on June 26, 1990, City of Cudahy Health Department Registered Nurse, Rosalie Hersil (Hersil), received a telephone call from the Cudahy's Department of Streets garage to come and view contents of trash bags behind Respondent Establishment, Ryczek-Larsen Brothers Funeral Home on Underwood Street (Cudahy), Exhibit "E", in pertinent part.

15. Hersil met Mr. Loferski, Assistant Superintendent of Streets behind Respondent Funeral Establishment and inspected trash bags which appeared to contain infectious waste, and viewed a bag which appeared to be:

"a body bag; clothing -- some of which looked soiled; P.J.'s?; rubber gloves, empty plastic bottles with warning of potential cancer producing agent label."

16. The incident was referred to Wantuch, Health Administrator, who communicated with Mr. Loferski, Assistant Superintendent of Streets, and it was concluded and agreed to refer the matter to the Cudahy City Attorney's office regarding an ordinance citation for the method of disposing of infectious waste.

17. Ultimately, on about June 28, 1990, Cudahy's City Attorney Boren issued or caused to be issued against Respondent, Exhibit "F" complaint affidavit citation, No. 002153, charging Respondent with violating municipal ordinance No. 1480, "disposing potentially infectious waste with normal everyday trash."

18. Prior to the date Respondent was to have appeared in court, Respondent stipulated to the citation, was adjudicated guilty, and assessed a forfeiture and court costs.

19. By virtue of the above enumerated facts, violations and guilty findings in the municipal citations, Respondent Schroeder is deemed to have violated sec. FDE 2.10(3)(b), Wis. Adm. code, protocol and procedures for disposal of infectious waste; violated sec. FDE 2.10(3)(e)4, Wis. Adm. code, the body bag and all disposable protective garments and gloves used in removal and transport shall be incinerated on the premises or double bagged, labeled as containing infectious waste and disposed of in accordance with procedures for disposal of other infectious waste and dispose of in accordance with procedures for disposal of other infectious waste, after the body has reached the funeral establishment; violated sec. FDE 2.10(3)(g)3, Wis. Adm. code, soiled clothing, linens and other laundry shall be bagged, appropriately labeled, and processed according to the funeral home's existing protocols regarding "Blood/Body fluids precautions," and violated sec. FDE3.02(1), Wis. Adm. code, violated or aided and abetted a violation of any state or Federal Law substantially related to the practice of funeral directing, and thereby has engaged in unprofessional conduct.

20. Due to the above-enumerated violations of Respondent Schroeder, the Respondent Establishment is subject to discipline pursuant to sec. 445.105(4), Wis. Stats.

21. Based upon the above and in settlement of this matter, Respondent Schroeder hereby consents; accepts and agrees to a suspension of his Funeral Director's licenses and/or certificate for a period of one (1) week (seven days), commencing on May 30, 1993; and to pay the amount of \$300.00 in a cashiers check or money order made payable to the Department as part assessment of costs, to be tendered at the time of executing/returning the Stipulation to the Department.

22. On or before the effective day of the suspension, Respondent shall surrender to the Board all Funeral Director's licenses/certificates previously issued to him with the understanding that at the expiration of the suspension, the licenses/certificates shall be returned to him forthwith and he may resume practice without further notice.

23. Respondent establishment, Ryczek-Larsen Brothers Cudahy Funeral Home agrees to a reprimand.

24. Respondents and Complainant's attorney agree that this Stipulation may be incorporated into the Board's Final Decision and Order adopting the Stipulation Agreement.

25. Respondents further agree that Complainant's attorney may appear at any deliberative meeting of the Board with respect to the Stipulation, but that appearance is limited solely to responding to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

Scott F. Schroeder
Scott F. Schroeder
Respondent

Dec 22, 1992
Date

Scott F. Schroeder
Ryczek-Larsen Brothers,
Cudahy Funeral Home
by Scott F. Schroeder
its Vice President

Dec 22, 1992
Date

Henry E. Sanders
Henry E. Sanders
Complainant's Attorney

1/7/93
Date

HES:djm
DOEATTY-2033

City of Cudahy

MUNICIPAL GARAGE • 3555 E. PABST AVE. • (414) 769-2216
JOE JANICEK • SUPERINTENDENT OF STREETS

February 27, 1990

R
Ryczek-Larsen Bros. Funeral Home
3774 E. Underwood Avenue
Cudahy, WI 53110

Dear Cudahy Businessman,

Due to recent complaints by our collection crews and others, we are sending copies of the ordinance governing wastes generated by your type of business. Your immediate compliance with these rules is necessary for continued city waste pick up and safety of the crews involved.

Thank you for your cooperation.

Sincerely,

Greg Loferski
Assistant Superintendent of Streets

cc: file

Exhibit "A"

Y
OF

Cudahy



WISCONSIN 53110

PHONE: (414) 769-2239

HEALTH DEPARTMENT
4920 SOUTH LAKE DRIVE

DR. CARL J. CHELIUS
HEALTH COMMISSIONER

March 20, 1990

Joseph Janicek
Superintendent of Streets
City of Cudahy
3555 E. Pabst Avenue
Cudahy, WI 53110

Dear Mr. Janicek:

Several weeks ago I received a complaint from one of your trash collectors that he found bloody dressings and tubing in the trash behind the Ryczek-Larsen Funeral Home at 3774 E. Underwood Avenue. I telephoned Scott Schroeder, the Funeral Director, regarding this matter and he assured me that the problem would be handled and that the company owning the funeral home was investigating special options regarding the disposal of infectious waste.

On March 19, 1990, I received a telephone message from your department that an orange body bag with a tag marked "Lewandowski" was seen in a trash can behind the funeral home. Due to other departmental emergencies, I was unable to contact the funeral home that day.

On March 20, 1990, I received a telephone call from Butch Loferski of your department requesting that I meet him behind the funeral home. I arrived at approximately 10:30 A.M. Four uncovered trash cans were on a wooden pallet behind the funeral home's garage. There was a rubber glove laying on the pallet. The first trash can contained what appeared to be a white plastic body bag. The second can was completely full with a thin see-through plastic garbage bag containing red stained gauze, plastic bottles, etc. The third can contained shrub branches. The fourth can contained a blue egg-crate cushion and what appeared to be chux. I did not explore what was additionally in the full can.

Exhibit "B"

I am extremely concerned about the lack of proper disposal of potentially infectious material, especially since these trash cans are an open invitation to children and animals. I am further distressed that these practices continue despite my conversation with Mr. Schroeder.

After reviewing City of Cudahy ordinance #1480 and having a conversation with you, I spoke with City Attorney James Boren today and he feels that a citation should be considered. Please contact Attorney Boren regarding this matter as soon as possible.

If I can be of further assistance, please feel free to contact me.

Very truly yours,

Carol Wantuch

Carol Wantuch, RN
Public Health Administrator

cc: Atty. James Boren

EXHIBIT "B"

Date Bail Set: _____ Date Bail Received: _____ Amount \$: _____

Continuances

Warrant Summons Date Issued: _____ Date Returned: _____

Case Transferred to: _____

Jury trial requested: _____ Fee Paid \$: _____

Appearances

Prosecution:

Defendant:

Plea: Guilty Not Guilty No Contest Dismissed Amended

Trial:

Court Jury Date: _____

Verdict: Guilty Not Guilty

Sentance suspended

Therefore the Court enters the following judgment:

Forfeiture	10% Assessment	Court Costs	Total
\$	\$	\$ 35 + 25	\$ 60

Date of Judgment: *5/14/90* Jail (Days): _____

COMMENTS

By the Court

Signature of Defendant: _____ Judge: _____

HAVE RECEIVED A COPY OF THE WITHIN CITATION.

EXHIBIT "C"

WHITE-COURT

YELLOW-DEFENDANTS

BUFF-DEPT.

the undersigned, an officer for and on behalf of the above named municipality, states upon the basis of personal knowledge (or upon information and belief that the named defendant did, on

March 26 1990 at AM 2 PM

Violate Ord. No. 1480

Name-First _____ Middle Initial _____ Last _____

Scott Schroeder

Part Office _____

Address (Residence) 3774 E. Underwood Ave., Cudahy, WI 53110

Birthdate _____ Drivers License Number _____ State _____

Make: _____ Type: _____

Description: Sex M Race W Eyes _____ Hair _____ HT _____

Designation of Offense: _____

Describe Violation: _____

Disposing potentially infectious waste/normal everyday trash

At _____

Officer's Name: _____ Dept: _____ Date: 3/27/90

VERIFICATION OR ENDORSEMENT: _____

Sworn Before: _____

Endorsed By: _____ Title: _____ Date: 3-27-90

IMPORTANT: READ NOTICE ON BACK

YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT ON: 4/16/90 AT 8:15 AM PM- 5050 S. Lake Dr. Cudahy, WI

Complaint No. 002313

Cash Deposit \$ 145.00

State of Wisconsin _____ County of _____ City of _____ or Cudahy _____

COMPLAINANT _____

AFFIDAVIT _____

IN THE Municipal Court for the City of Cudahy

WISCONSIN UNIFORM MUNICIPAL CITATION



04/18/90 06191740

SCHROEDER, SCOTT

OM

90-1381

FUNERAL HOMES

Larsen Bros.

Ritter — Larsen Bros.
Funeral Home
5310 W. North Ave.
Milwaukee, WI 53208
445-4212

October 25, 1990

Ritter — Larsen Bros.
Brookfield Funeral Home
1875 N. Calhoun Rd.
Brookfield, WI 53005
786-8030

Carol Wantuch, RN
Public Health Administrator
CUDAHY HEALTH DEPARTMENT

August Abe — Larsen Bros.
Funeral Home
3621 W. Villard Ave.
Milwaukee, WI 53209
461-2225

Dear Carol,

The Ryczek-Larsen Bros. Funeral Home does not employ or contract and outside agency to dispose of waste as defined in Infectious Waste Ordinance. Instead, we transport the waste material to one of our other funeral homes which has an incinerator. This is done by our funeral home personal only.

Bistricky-Irsch-Grosse
Larsen Bros. Funeral Home
6709 W. Capitol Dr.
Milwaukee, WI 53216
463-3340

In view of the funeral home's policy, would you please advise us as to whether or not we still need to contract on outside disposal service.

Leszczynski — Larsen Bros.
Funeral Home
726 E. Center St.
Milwaukee, WI 53212
562-6539

Thank you, in advance, for your cooperation in this matter.

Sincerely,

Ryczek — Larsen Bros.
Funeral Home
1910 W. Becher St.
Milwaukee, WI 53215
645-7410

Scott F. Schroeder

Scott F. Schroeder
Manager

Ryczek — Larsen Bros.
Cudahy Funeral Home
3774 E. Underwood Ave.
Cudahy, WI 53110
744-7377

Koelsch — Larsen Bros.
West Allis Funeral Home
7626 W. Greenfield Ave.
West Allis, WI 53214
476-0052

Rudolph — Larsen Bros.
Waukesha Funeral Home
502 N. East Ave
Waukesha, WI 53186
542-7111

Larsen Bros
New Berlin Funeral Home
15250 W. National Ave.
New Berlin, WI 53151
786-2030

Exhibit "D"

Visit Mo./Day/Yr.	Referral source/reason for nursing intervention. Observations, care, instruction, methods, medical treatment and medications.	Nursing care plan Signature
6/26/90 10:30 AM	<p>P.C. from garage requesting a Nurse come to get contents of trash bag behind Rejczyk Larson Funeral Home on Underwood Av. P.H.N. met "Butch" Loferski, assistant Superintendent of Streets, to inspect what looked like a bag containing infectious waste. There was a light gray see-through plastic bag tied to a string. The bag was in the alley. Upon inspection, I saw through the bag what appeared to be:</p> <ol style="list-style-type: none"> 1. body bag 2. Clothing - some of which looked padded 3. P. J's? 4. rubber gloves 5. empty plastic bottles - warning of potential cancer producing agent label. 6. empty soda can 7. cigarettes / butts 	
11:15 AM	<p>There was a hole in the bag about the size of a 50¢ piece. After discussion with Mr. Loferski, another employee from the city garage, was sent to a plastic bag to place the gray trash bag into, to prevent a tearing of the bag.</p> <p>The city truck then transported the waste bag to the Cudahy Health Dept. in order to prevent children's exposure to contents of infectious waste. P.H.N. observed children playing ball & riding bikes through alley. Referred to Carol Wantuch, Health Administrator, Rosalie Krail RN</p>	
6/26/90 2:00	<p>TC to Asst Superintendent of Streets Loferski who stated he would contact</p>	

Exhibit "E"

Visit Mo./Day/Yr.	Referral source/reason for nursing intervention. Observations, care, instruction, methods, medical treatment and medications.	Nursing care plan Signature
6/26/90 cont	Cudahy City Atty re: possible citation & further disposal of infectious waste removed from funeral home.	Carol Wartuch RN
6/27/90 11 ⁰⁰	TC to J. Boren, Cudahy City Atty - message left.	CW
6/27/90 12 ³⁰	TC from J. Boren. I explained what had transpired on 6/26/90. City Atty Boren requested that I contact Superintendent of Streets re: issuance of citation to Ryzek-Larson Funeral Home re: violation of city ordinance re: infectious waste citation to be signed by city Atty on 6/29/90. I was also instructed to properly bag infectious material & bring it to court on the assigned day.	CW
6/27/90 1 ⁰⁰	TC to Superintendent of Streets Jaxick, re: above conversation to City Atty.	CW

Exhibit "E"

COPY

FORM MSC 1

WISCONSIN UNIFORM MUNICIPAL CITATION

(S)

90-1786

Complaint No.	M 002153
Cash Deposit \$	265.00

State of Wisconsin
 County of MILWAUKEE
 City of CUDAHY

COMPLAINT AFFIDAVIT

Municipal
 IN THE _____ COURT FOR THE
 City of Cudahy

This undersigned, an officer for and on behalf of the above named municipality, states upon the basis of personal knowledge (or upon information and belief) that the named defendant did, on

June 26 1990 10:15 X PM

Violate Ord. No. 1-480
 Name—First Middle Initial Last

Address (Residence) Scott Schroeder
3774 Underwood Ave. Cudahy WI 53110

Birthdate 7-13-51 Drivers License Number _____ State _____ Vehicle License No. _____
 I Reg. I Chau. Make: _____ Type: _____

Description: Sex _____ Race _____ Eyes _____ Hair _____ Wt. _____ Ht. _____

Designation of Offense: Disposing potentially infectious waste for weekly city trash pickup

Describe Violation: _____

County Milwaukee City/Village/Town Cudahy

Officer's Signature: Thomas J. Nuber Dept: DPW Date: 6/28/90

VERIFICATION OR ENDORSEMENT:

Sworn Before: _____

Endorsed By: James G. Dore
 Title: City Attorney Date: 6-29-90

YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT ON: July 9

19 90 AT 8:15 AM

Located at: 5050 S. Lake Dr. Cudahy, WI 53110

IMPORTANT: READ NOTICE ON BACK

WHITE— COURT m-w YELLOW— DEFENDANTS BUFF—DEPT.

7-16-90

FORM MSC

Date Bail Set _____ Date Bail Received: _____ Amount: _____

Continuances _____

Warrant Summons Date Issued: _____ Date Returned: _____

Case Transferred to: _____

Judicial requested: _____ Fee Paid \$ _____

Appearance: _____

Pleas: Not Guilty No Contest Amended Dismissed Guilty Contested Trial Jury Not Guilty Verdict Guilty Court _____

Date: 7-9-90

Therefore the Court enters the following judgment:

Forfeiture \$ <u>200</u>	10% Assessment \$ <u>40</u>	Court Costs \$ <u>25</u>	Total \$ <u>265</u>
--------------------------	-----------------------------	--------------------------	---------------------

Date of Judgment: _____ Jail (Days): _____

COMMENTS: _____

By the Court: _____

Judge _____

I HAVE RECEIVED A COPY OF THE WITHIN CITATION.

Signature of Defendant: _____

92 DEC 28 PM 4: 16

RECEIVED

Exhibit "F"

RECEIVED

DEC 29 1992

Dept. of Regulation & Licensing Division of Enforcement

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Funeral Directors Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Funeral Directors Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Funeral Directors Examining Board.

The date of mailing of this decision is JANUARY, 27, 1993.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly as may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions

for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. The court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person attorney of record.

(d) The agency (except in the case of the tax appeal commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other person as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.