

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

March 18, 2009

## Before

FRANK H. EASTERBROOK, *Chief Judge*

DIANE S. SYKES, *Circuit Judge*

JOHN DANIEL TINDER, *Circuit Judge*

Nos. 08-1067 & 08-1689

LINDQUIST FORD, INC., STEVEN  
LINDQUIST, and CRAIG MILLER,  
*Plaintiffs-Appellees,*

*v.*

MIDDLETON MOTORS, INC.,  
*Defendant-Appellant.*

Appeal from the  
United States District Court for the  
Western District of Wisconsin.

No. 07 C 12

Barbara B. Crabb,  
*Chief Judge.*

## ORDER

The petition for panel rehearing is DENIED.

The slip opinion released on February 25, 2009, in this matter is AMENDED as follows:

The last sentence of footnote 4 on p. 18 of the slip opinion ("There is no need for a presumption where, as here, there is direct and circumstantial evidence about Lindquist's expectation of payment.") is DELETED. The following is INSERTED in its place:

There is no need for a presumption where there is direct or circumstantial evidence about expectation of payment; applying a presumption in such a case is not only unnecessary but inappropriate. Here, there is both direct and circumstantial evidence about Lindquist's expectation of payment, and therefore no presumption applies.