

REPLEVIN FORMS

We are sending you this packet based on the facts you provided us and application of law to those facts.

If someone has kept your property, you should send them a letter asking them to return the property. Give them a certain date to return the property by. Keep a copy of the letter you send. If they do not return the property, you can file a replevin action.

Replevin is a legal action to ask for the return of your personal property which is being kept from you by another person without your permission. You must own or have a property interest in the property you want returned. The person who has the property must be wrongfully keeping it at the time you file your action.

By filing this action you may give up your right to sue the other person for additional claims you might have against them which arise out of the same facts and circumstances covered in your replevin action. For example, if this claim is against your landlord, you may give up other claims for damages arising from your rental agreement. If this claim is against someone who kept your property for a long time, you may lose the right to claim money for damages you suffered because you were deprived of the use of your property for that time.

A replevin case can be filed either in a Municipal Court, County Court or a Common Pleas Court. If the value of the property claimed is more than \$15,000, you should file in the Common Pleas Court.

Attached are the forms you need to file to begin an action for replevin. These forms must be filled out and submitted to the Clerk of the Court together.

FILING THE PAPERS

1. Have all forms filled out (and the Affidavit notarized), and make two copies of each form (except the Request for Hearing which will require three copies), before you go to the Court. The Clerk of Court's staff will not help you in completing the forms or making copies.

2. Take the completed forms to the Clerk of Courts' office. There is a filing fee, which varies from county to county. The only way to avoid paying the filing fee is if you do not have the money and file a Poverty Affidavit with your Motion. A Poverty Affidavit form is included in these papers if you cannot afford the filing fee.

3. The Clerk's staff will take the originals and one copy of the complete set of forms (the Motion, Affidavit, Praecipe, and Poverty Affidavit, if one is included). Keep one set of copies of the forms for yourself. Ask the Clerk to time-stamp your copy of the Motion. This is proof that you filed it.

4. The Clerk will tell you when you need to go to Court on your Motion.

HEARING

1. It helps a lot if you are prepared for the hearing. Dress as neatly as you can and bring to Court with you any witnesses you have to the things you have said. For instance, you should bring to Court anyone who knows that you were given or purchased the items in question. You should bring any title you have to the property or a written bill of sale.
2. You should make a list of what you are going to tell the judge so you don't forget. Write out what you are going to ask your witnesses so you are sure to ask them all the questions you want to. Do this before you go to Court so you are ready.
3. You may be asked questions by the judge or the person you are suing. Listen to the questions and make sure you answer the questions as directly and truthfully as you can. If you do not understand the questions or are not sure what you are being asked, you have the right to have the questions explained to you before answering. Ask if you don't understand the question.
4. After the hearing, the judge will decide what order to make. Enclosed is an Entry you may give the judge to write out his/her order.

GOOD LUCK!

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

(Your Address)

Judge _____
(leave blank)

Plaintiff,

VS.

(Their Name)

COMPLAINT FOR REPLEVIN

(Their Address)

Defendant.

FIRST CAUSE OF ACTION

1. I am a resident of Ohio and _____ County.
2. Defendant is a resident of Ohio and _____ County.
3. The court has proper jurisdiction and venue over this matter because it involves residents of _____ County and property that is located in _____ County.

4. I own the following property: _____
(list the items Defendant has kept)

5. My ownership of the property is evidenced by _____

(explain how you got the property – bought it, etc.)

6. On _____ Defendant took possession of property
(date they took your property)

belonging to me.

7. Defendant took possession of my property by _____
(describe what Defendant did)

8. I request the return of my property.

9. Defendant has failed to return the property belonging to me.

10. The property being held by Defendant is worth about \$ _____
(value of your property)

11. Upon information and belief, the property is in the actual possession of
Defendant and is located at _____
(address where you believe the property is located)

SECOND CAUSE OF ACTION

12. Defendant has wrongfully exerted control of my property.

13. Defendant has converted my property.

PRAYER FOR RELIEF

I request that the Court order the following relief:

A. Find that I am the owner of the property in question;

B. Order the Defendant to return the property to me;

C. If the property cannot be returned to me, then order the Defendant to pay
\$ _____ for the conversion of my property;
(value of property)

D. Grant me costs; and

E. Grant any other relief that may be just or equitable.

Sign Here

Print Your Name

Your Address

City, State, Zip Code

Your Telephone Number

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

VS.

(Their Name)

Defendant.

**MOTION FOR ORDER OF
POSSESSION OF PROPERTY**

Pursuant to Ohio Revised Code §2737.03, Plaintiff respectfully requests the Court grant an order of possession of the property described in Plaintiff's Affidavit in Replevin which is attached to this Motion. Plaintiff requests that the Order of Possession order the Sheriff of _____ County to seize and deliver to Plaintiff or accompany Plaintiff in repossession of the following property now in possession of Defendant and wrongfully detained by Defendant:

(list property or attach a list)

I make this Motion because Defendant obtained possession of the property by

(describe how Defendant took your property)

Defendant has refused to return the property after being requested by a letter. I have attached a copy of the letter I sent. As a result, Defendant continues to wrongfully retain my property.

For these reasons, I respectfully request this Court grant my Motion and execute an Order of Possession.

Respectfully Submitted,

Sign Here

Print Your Name

Your Address

City, State, Zip Code

Your Telephone Number

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

vs.

(Their Name)

AFFIDAVIT IN REPLEVIN

Defendant.

STATE OF OHIO

COUNTY OF _____, SS.

_____, being first sworn, says:
(Your Name)

I am the owner of the following described personal property:

<u>PROPERTY</u>	<u>VALUE</u>
_____	_____
_____	_____
_____	_____
_____	_____

2. The property is located at the following location: _____

3. I own the property because: _____
(explain how you got the property – bought it, etc.)

4. If my interest in the property is based upon a written instrument, a copy of that instrument is attached to this Affidavit. (for example a car title)

5. The property is being wrongfully kept from me by Defendant.

6. Defendant took possession of the property when: _____

(describe how Defendant got your property)

7. I have been damaged by the Defendant's keeping my property.

8. The property was not taken by Defendant for a tax assessment, or fine pursuant to statute, or seized under execution of judgment against the property.

9. To the best of my knowledge, Defendant has no lawful reason to keep my property.

10. I have requested that Defendant return my property.

(Affiant)

Sworn to and subscribed before me, a Notary Public, this _____ day of

_____, 20____.

Notary Public

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Plaintiff,

vs.

(Their Name)

Defendant.

Case No. _____
(leave blank)

Judge _____
(leave blank)

NOTICE

You are hereby notified that the Plaintiff in this proceeding has applied to this Court for the recovery of possession of the property described in the attached Affidavit claimed to be in your possession. The basis for this application is indicated in the documents that are enclosed with this Notice.

If you dispute the Plaintiff's claim for possession of property and believe that you are entitled to retain possession of the property because it is exempt or for any other reason, you may request a hearing before this Court by disputing the claim in the Request for Hearing form appearing below, or in a substantially similar form and delivering the request for the hearing to this Court, at the office of the Clerk of this Court, not later than the end of the fifth business day after you receive this Notice. You may state your reasons for disputing the claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and if

you do not state your reasons, it will not be held against you by the Court and you can state your reasons at the hearing.

If you request a hearing, it will be conducted in this Court at _____m. on, _____, 20_____.

You may avoid having a hearing but retain possession of the property until the entry of final judgment in the action by filing with the Court, at the office of the Clerk of this Court, not later than the end of the fifth business day after you receive this Notice, a bond executed by an acceptable surety in the amount of double the value of the personal property.

If you do not request a hearing or file a bond on or before the end of the fifth business day after you receive this Notice, the Court, without further notice to you, may order a law enforcement officer or bailiff to take possession of the property. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time and place of the trial of the action will be sent to you.

Clerk of the Court

Date

IN THE _____ COURT
_____ COUNTY, OHIO

Case No. _____

Plaintiff,

Judge _____

vs.

Defendant.

**DEFENDANT'S REQUEST
FOR HEARING**

I dispute the claim for the possession of property in the above case and request that a hearing in this matter be held at the time and place set forth in the notice that I previously received.

I dispute the claim for the following reasons:

(Name of Defendant)

(Signature)

(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU MAY WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING.

NOTE: CLERK MUST ATTACH A POSTAGE-PAID ENVELOPE (O.R.C. §2737.05)

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

vs.

(Their Name)

PRAECIPE

Defendant.

TO THE CLERK OF COURTS:

Kindly issue to the Defendant a copy of the Complaint and Motion for Order of Possession and two copies of the Notice of this proceeding. Defendant can be served at the address on the Complaint.

Respectfully Submitted,

() _____ - _____

IN THE _____ COURT
_____ COUNTY, OHIO

Case No. _____

Plaintiff,

Judge _____

vs.

ENTRY

Defendant.

This matter came on to be heard on the Motion for Order of Possession filed by

_____.

_____ were present.

Based upon the Motion and the evidence presented, it is hereby ORDERED:

JUDGE

SUBMITTED BY:

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

VS.

(Their Name)

Defendant.

**AFFIDAVIT OF INABILITY
TO PREPAY COURT COSTS**

_____, being first duly sworn and cautioned,
(Your Name)

depose and state that I am the Plaintiff, that I have a valid cause of action but am
unable to give either security or a cash deposit to secure costs.

Sworn to and subscribed before me this _____ day of _____,
20_____.

Notary Public

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IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

VS.

(Their Name)

Defendant.

JOURNAL ENTRY
FILING FEES

Plaintiff's motion for waiver of filing fees is/is not granted.

IT IS SO ORDERED.

JUDGE/MAGISTRATE (Court will complete)