



Clerk of the Circuit Court & Comptroller

Office of Gary J. Cooney, Clerk & Comptroller

P.O. Box 7800 • 550 W. Main St. • Tavares, FL 32778-7800 • www.LakeCountyClerkFL.gov

INSTRUCTIONS FOR FILING A COUNTY COURT REPLEVIN CASE

(For use in cases valued at \$50,000.00 or less)

Replevin is to recover personal property by persons entitled to possession of the property in question. Filed by itself, it is not used to recover monetary damages; however, it may be combined with a claim for monetary damages.

Anyone filing a complaint should determine the location of the property to be recovered and the full proper name(s) and address(es) of the party/parties wrongfully detaining the property. If a party is a corporation, the legal name of the corporation and the name and address of the registered agent who is available to accept service of legal papers should be determined. This information can be obtained from the Florida Secretary of State, Division of Corporations, Tallahassee, Florida 32301. The website for the Secretary of State is www.sunbiz.org. If a party is a business, but not registered with the Secretary of State, the name of the business should be determined, as well as the names of the business owners and their addresses.

A replevin complaint should be completed once the information needed for the complaint is gathered. Any documents supporting the right to possession of the property in question should be attached to the complaint. Once the complaint, complete with attachments, if any, is completed, one (1) complete copy should be made for filing with the court, and one (1) complete copy should be made for each defendant. Each copy should also be accompanied by a statement of responsibility.

The filing fees are as follows:

<u>AMOUNT OF CLAIM</u>	<u>FILING FEE</u>
\$.01 - \$1,000.00	\$130.00 plus Service fee*
\$1000.01 - \$2,500.00	\$260.00 plus Service fee*
\$2,500.01 - \$15,000.00	\$385.00 plus Service fee*
\$15,000.01 - \$50,000.00	\$485.00 plus Service fee*

*If a writ of replevin is issued, there is a Sheriff's service fee of \$90.00 for serving and levying on the writ.

Checks for **filing fees** should be made payable to Gary J. Cooney, Clerk of the Circuit Court and Comptroller.

If it is believed the property is in danger of being destroyed, concealed, wasted, removed from the state, removed from the County, transferred to an innocent purchaser, or that the defendant has failed to make a payment as agreed, an affidavit in support of a prejudgment writ of replevin may also be filed. If this affidavit is filed, a copy must be included with each copy of the complaint and statement of responsibility.

If the prejudgment writ of replevin is granted, a bond must be posted in an amount which is twice the value of the goods subject to the writ or twice the balance due and owing, whichever is lesser, as determined by the court. If the bond posted is in the form of cash, a Clerk's fee for collecting and keeping the bond is charged at the rate of 3% of the first \$500.00, plus 1.5% of the amount over \$500.00. A cash bond may be in the form of cash, cashier's check, or U.S. Postal Service money order. A surety bond may also be posted. In the event a surety bond is presented, an \$8.50 bond approval fee will be collected at the time of posting.

The complaint and an order to show cause must be served on the defendant(s). A summons is generally served by either the Sheriff or a certified process server. If using a Sheriff, payment for service must be made payable to the Sheriff's office of the appropriate county for service. Sheriffs charge \$40.00 for each defendant served. The Lake County Sheriff's Office **does not** accept personal checks.

Once all appropriate documents are filed, the Clerk's office will make them available to the judge on the case, and the judge will determine if an order setting the case for a hearing should be issued. If so, a hearing date will be established by that order.

If a prejudgment writ is requested, the complaint, affidavit, and any supporting documents are forwarded to the judge for review. If a prejudgment writ is issued, upon the posting of the bond and the payment for serving and levying on the writ, the Sheriff's office where the property is located will be provided a copy of the writ and the payment.

The Clerk's office will notify you of initial hearing dates. If you do not receive a notification of an initial hearing date within two weeks of filing, it is your responsibility to call the Clerk's office to determine a hearing date. Please **do not** call prior to the end of the two-week period.

IN THE COUNTY COURT OF LAKE COUNTY, FLORIDA

Plaintiff(s) Name(s)

Physical Address(es)

Mailing Address(es)

vs.

CASE NO. _____

Defendant(s) Name(s)

Physical Address(es)

Mailing Address(es)

REPLEVIN COMPLAINT
(Form 1.937)

The Plaintiff(s) sues the Defendant(s) and alleges:

1. This is an action to recover possession of personal property in _____ County, Florida.
2. The description of the property is: _____

To the best of plaintiff's knowledge, information, and belief, the value of the property is _____.

3. Plaintiff is the owner of the claimed property or is entitled to possession of it by virtue of the following source of title, or right of possession _____

(If ownership or possession is based on a written instrument, a copy is attached.)

4. To plaintiff's best knowledge, information, and belief, the property is located at _____

5. The property is wrongfully detained by defendant. Defendant came into possession of the property by _____

(method of possession). To plaintiff's best knowledge, information, and belief, defendant detains the property because _____

(give reasons).

6. The property has not been taken for any tax, assessment, or fine pursuant to law.
7. The property has not been taken under any execution or attachment against plaintiff's property.

WHEREFORE plaintiff demands judgment for possession of the property.

Plaintiff

Date

STATE OF FLORIDA
COUNTY OF LAKE

Sworn to or affirmed and subscribed before me by means of ☐ physical presence or
☐ online notarization this _____ day of _____, 20_____,
by _____ (Name of Person Signing).

NOTARY PUBLIC or DEPUTY CLERK

(Print, type, or stamp commissioned name of notary or clerk.)

☐ Personally known or ☐ Produced identification of _____.

IN THE COUNTY COURT OF LAKE COUNTY, FLORIDA

Plaintiff(s) Name(s)

Physical Address(es)

Mailing Address(es)

vs.

CASE NO. _____

Defendant(s) Name(s)

Physical Address(es)

Mailing Address(es)

STATEMENT OF RESPONSIBILITY

(Civil Case \$50,000.00 or Less)

Before filing this case I have considered the following matters and acknowledge that:

1. This case is being filed in the County Court under the Florida Small Claims Rules of Court; that it is considered a layman's court; that I, and the defendant, may be represented by an attorney of our individual choice but neither is required to do so, and that the conduct of this case will be in accordance with the rules of procedure and laws of Florida which apply to this case.
2. The naming of proper parties is an important element of the case and the responsibility for naming the proper plaintiff(s) and defendant(s) in this case is mine.
3. I am responsible for the furnishing of a correct address or location at which the defendant(s) can be served or given notice of this suit.
4. I assume responsibility as to my right to file this case for myself or for the named plaintiff(s).
5. I do not expect the Clerk who receives and files this claim to give me legal advice as to how to prosecute this case and acknowledge that the Clerk is not acting as my attorney or legal advisor.
6. I am solely responsible for the collection of any judgment entered in my favor.
7. I am responsible for knowing when my appearance in court is required. The Clerk's Office will send notification of the hearing date (Summons/Pre-Trial Notice or Notice of Trial) but if I have not received notification within two weeks, I am responsible for calling the Clerk's Office.
PLEASE DO NOT CALL PRIOR TO THE END OF THE TWO-WEEK PERIOD.

Date

Signature

IN THE COUNTY COURT OF LAKE COUNTY, FLORIDA

Plaintiff(s) Name(s)

Physical Address(es)

Mailing Address(es)

vs.

CASE NO. _____

Defendant(s) Name(s)

Physical Address(es)

Mailing Address(es)

ORDER TO SHOW CAUSE
(Form 1.916)

THE STATE OF FLORIDA

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this order on defendant, _____
by personal service as provided by law, if possible, or, if you are unable to personally serve defendant
within the time specified, by placing a copy of this order with a copy of the summons on the claimed
property located at _____, Florida,
at least 5 days before the hearing scheduled below, excluding the day of service and intermediate
Saturdays, Sundays, and legal holidays. Nonpersonal service as provided in this order shall be effective to
afford notice to defendant of this order, but for no other purpose.

Defendant shall show cause before the Honorable _____, on
_____ (date), at _____ (time) in _____, Florida,
why the property claimed by plaintiff in the complaint filed in this action should not be taken from the
possession of defendant and delivered to plaintiff.

Defendant may file affidavits, appear personally or with an attorney and present testimony at the
time of the hearing, or, on a finding by the court pursuant to section 78.067(2), Florida Statutes, that plaintiff
is entitled to possession of the property described in the complaint pending final adjudication of claims of
the parties, file with the court a written undertaking executed by a surety approved by the court in an amount
equal to the value of the property to stay an order authorizing the delivery of the property to plaintiff.

If defendant fails to appear as ordered, defendant shall be deemed to have waived the right to a
hearing. The court may thereupon order the clerk to issue a writ of replevin.

ORDERED at Lake County, Florida on _____ day of _____, 20____.

County Judge

IN THE COUNTY COURT OF LAKE COUNTY, FLORIDA

Plaintiff/Petitioner

vs.

CASE NO. _____
[case number assigned by Clerk]

Defendant.

AFFIDAVIT IN SUPPORT OF PREJUDGMENT WRIT OF REPLEVIN

STATE OF FLORIDA
COUNTY OF LAKE

Before me this day personally appeared the plaintiff, _____ who, after being duly sworn, deposes and says as follows:

1. To plaintiff's best knowledge, information, and belief, the defendant(s) is or are engaging in, or about to engage in, conduct that may place the claimed property in danger of destruction, concealment, waste, removal from the state, removal from the jurisdiction of the court, or transfer to an innocent purchaser during the pendency of this action, to wit:

_____; or
[describe what gives rise to this belief]

2. That the Defendant has failed to make payment as agreed, to wit:

[describe the payment which was not made]

FUTHER AFFIANT SAYETH NOT.

Affiant

Sworn to or affirmed and subscribed before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20_____,
by _____ (Name of Person Signing).

NOTARY PUBLIC or DEPUTY CLERK

(Print, type, or stamp commissioned name of notary or clerk.)

☐ Personally known or ☐ Produced identification of _____.

IN THE COUNTY COURT OF LAKE COUNTY, FLORIDA

Plaintiff(s) Name(s)

Physical Address(es)

Mailing Address(es)

vs.

CASE NO. _____

Defendant(s) Name(s)

Physical Address(es)

Mailing Address(es)

ORDER AUTHORIZING WRIT OF REPLEVIN

THIS CAUSE having come upon the Plaintiffs application for a Writ of Replevin pursuant to section 78.068, Florida Statutes, and the Court having taken testimony from the Plaintiff regarding the necessity for said Writ and the Court being satisfied that the Defendant in possession of the property being the subject matter of this suit will probably violate any restraining Order or any part of any restraining Order issued by the Court pending Notice of Hearing on the Show Cause Order and the Court being fully advised.

It is thereupon ORDERED and ADJUDGED that the Clerk issue A Writ of Replevin in this cause setting forth thereon the property sought by the Plaintiff in said Complaint.

DONE and ORDERED in Chambers, Tavares, Lake County, Florida this _____ day of _____, 20_____.

County Judge