

INSTRUCTIONS FOR FILING AN EMERGENCY REPLEVIN CASE

The Replevin action is used for resolving civil disputes involving personal property valued up to \$15,000.00 (excluding court costs, interest and/or attorney's fees, if applicable). This process allows an individual to recover their property from another person who refuses to return the property to the owner.

Before filing your complaint, you must know where the property is located. You should attempt to get the full proper name and address of the party/parties you want to sue. You will need to know the proper legal name for the business, as well as the proper owners and their addresses. If you wish to sue a corporation, you need to identify the name and address of a corporate representative who is available to accept service of legal papers. 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.

Once you are prepared to file your case, you should complete a Replevin complaint form, supported by invoices or other evidence of legal right to possession of the property in question. You will need to provide one (1) copy of each for the court, plus one (1) copy for **each** defendant. An "Affidavit in Support of Emergency Replevin" must also be filled out at the time you file the complaint.

The urgent nature of the emergency replevin requires that a bond be filed. This is collected as "good faith" money to ensure that the property in question can be repaired, if damaged; or replaced, if destroyed. Once the case is disposed, the judge will inform the clerk as to how the funds will be disbursed. The bond can be in the form of **cash**, or a **surety bond** from an insurance company. A Clerk's fee on collecting the cash bond is calculated at 3% of the first \$500.00, plus 1 ½ % of the remaining balance. The cash bond needs to be tendered as **cash, cashiers check, or U. S. Postal money order**. In the event a surety bond is presented, an **\$8.50 bond approval** fee will be collected at the time of filing. Effective July 1, 2008, the filing fees are as follows:

\$.01 - \$1,000.00	\$130.00 plus Service fee*
\$1,000.01 - \$2,500.00	\$260.00 plus Service fee*
\$2,500.01 up to but not more than \$15,000.00	\$385.00 plus Service fee*

*Filing fee includes \$85.00 Replevin fee

***Sheriff's service fee for Writ of Replevin \$ 90.00**

Checks for **filing fees** should be made payable to **Gary J. Cooney, Clerk of the Circuit Court and Comptroller**. Payment for service must be made payable to the Sheriff's of the county in which the writ of replevin is to be served. **The Lake County Sheriff's Office does not accept personal checks.** Other sheriff offices may have this same policy; it is your responsibility to check. Once all fees have been collected, the complaint and all supporting affidavits are forwarded to the Judge for review and authorization for issuance of Emergency Writ of Replevin. The Sheriff's department will then be notified, and the property will be picked up and placed in the plaintiff's possession until further notice by the court.

The Clerk's Office will send information of the hearing date (Summons/Pre-Trial Notice or Notice of Trial), but if you do not receive notification within two weeks, it is your responsibility to call the Clerk's Office. **PLEASE DO NOT CALL PRIOR TO THE END OF THE TWO-WEEK PERIOD.**

GARY J. COONEY
CLERK OF THE CIRCUIT COURT AND COMPTROLLER
550 WEST MAIN STREET
P. O. BOX 7800
TAVARES, FL 32778-7800
(352) 742-4145

Case # _____

Plaintiff,
Vs.

Defendant,

REPLEVIN COMPLAINT

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

1. This is an action to recover possession of personal property to which the Plaintiff(s) is lawfully entitled, by virtue of _____

(Describe source of right and if by contract, attach copy.)
Said property is described as follows:

2. The actual value of said property is the sum of \$_____.

3. Said property is wrongfully detained by above named Defendant(s) in Lake County, Florida.

4. That said property is wrongfully detained by above named Defendant(s) by reason of _____;

(Describe means by which Defendant(s) came into possession and that Defendant(s) refuse to grant Plaintiff(s) possession.)

5. Said property has not been taken for any tax, fine or assessment levied by virtue of any law of this State, nor seized by virtue of an execution or attachment against the property of said Plaintiff(s) herein.

6. That the goods above described are the Plaintiff(s) and that the Plaintiff(s) claim a return of said goods under an Order to Show Cause as to temporary possession and permanent possession on final adjudication or their value and claims damages for their detention and its costs of suit against the Defendant(s).

Plaintiff

Telephone Number

STATE OF FLORIDA
COUNTY OF LAKE

Sworn to and subscribed before me by _____ who is personally known to me or produced _____ as identification this _____ day of _____.

Deputy Clerk or Notary Public State Florida
My Commission Expires:

**COUNTY COURT
LAKE COUNTY, FLORIDA**

Case #: _____

Name(s) Address(es)

Physical Address(es)

Mailing

Plaintiff(s)

vs

Name(s)

Address(es) Physical

Address(es) Mailing

Defendant(s)

STATEMENT OF RESPONSIBILITY
(Civil Case Under \$15,000.00)

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

COUNTY COURT
LAKE COUNTY, FLORIDA

Case #: _____

Plaintiff,

Vs.

Defendant,

AFFIDAVIT IN SUPPORT OF EMERGENCY REPLEVIN

STATE OF FLORIDA
COUNTY OF Lake

Before me this day personally appeared _____ who
After being duly sworn and says as follows:

That he verily believes that the Defendant is engaging in or about to engage in
conduct that will;

1. Place the property being the subject matter of this suit in danger of destruction,
concealment, or removal from the jurisdiction of the Court.
2. Transfer the property being the subject matter of this suit to an innocent
purchaser, by virtue of the following facts:

FURTHER AFFIANT SAYETH NOT:

AFFIANT

Sworn to and subscribed before my by _____ who is personally
Known to me _____ or produced _____ as identification this _____
day of _____, _____.

Deputy Clerk or Notary Public State of Florida
My Commission Expires:

COUNTY COURT
LAKE COUNTY, FLORIDA

Case #: _____

Plaintiff,

Vs.

Defendant,

ORDER AUTHORIZING WRIT OF REPLEVIN

THIS CAUSE having come upon the Plaintiffs application for a Writ of Replevin pursuant to Florida Statue 78.068 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

COUNTY COURT
LAKE COUNTY, FLORIDA

Case #: _____

Plaintiff,

Vs.

Defendant,

WRIT OF REPLEVIN

STATE OF FLORIDA

TO ALL AND SINGULAR SHERIFFS OF THE STATE:

YOU ARE COMMANDED, within the provisions of Chapter 78.068 Florida Statutes, to replevy and place the Plaintiff in possession of the goods and chattels in possession of the Defendant _____
Or whomever, which are described as follows:

and to make due return of the manner in which you executed this Writ.

The Defendant(s) is required to appear before this Court at _____ on the _____ day of _____, 20____, at a pre-trial hearing in this cause. **DO NOT** bring business records or witnesses. **FAILURE TO APPEAR MAY RESULT IN THE ENTRANCE OF A FINAL JUDGEMENT AGAINST YOU.**

WITNESS, _____, Clerk of said Court and seal of said Court, at Tavares, Lake County, Florida this _____ day of _____, 20____.

DEPUTY CLERK