

Filing a Replevin Action



What is replevin?

Replevin is a legal action to ask for the return of your personal property that 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.



When should I file a replevin action?

If someone has kept your property, you should send him or her a letter asking the property to be returned to you. Give the person a specific date as a deadline to return the property. Keep a copy of the letter you send. If the person does not return the property, you can file a replevin action.



How do I file a replevin action?

Attached are the forms you need to file to begin a replevin action. These forms must be filled out and submitted to the Clerk of Courts together. Here are the steps you should take with the forms:

1. Have all forms filled out (and the Affidavit notarized). The staff at the courthouse cannot help you fill out the forms.
2. Make two photo copies of each form before you go to court (except for the Request for Hearing, which will require three photocopies).
3. 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 prepaying the filing fee is if you do not have the money to pay the filing fee. If you cannot afford the filing fee, a Poverty Affidavit is included with these forms.
4. The Clerk of Courts will take the originals and one copy of each form. You will keep one copy. Have your copy time-stamped by the Clerk of Courts.
5. The Clerk of Courts will tell you when you need to go to Court.



Where do I file a replevin action?

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

You can file the replevin action in the county that the person you are suing (the defendant) lives or in the county that the property is currently located.



What happens at a replevin hearing?

Here are some things to keep in mind for your hearing:

1. You should be prepared for the hearing. Dress as neatly as you can. Bring any witnesses to court that can testify in support of your case. If you have any title to the property or a receipt from buying the property.
2. You should make a list of what you want to tell the judge so you do not forget anything. Write out any questions you want to ask witnesses. Do this before you go to court.
3. You may be asked questions by the judge or the person you are suing. Listen to the questions. Answer the questions directly and truthfully. If you do not understand the question, say so.
4. After the hearing, the judge will decide the case and issue a written decision.



What else should I know about a replevin action?

When you file a replevin action, you may give up your right to sue the other person for other claims later on. This happens if the other claims arise out of the same facts or circumstances covered in your replevin action. For example, if your claim is against your landlord, you may give up your right to bring claims about your rental agreement later on.

Also, if this claim is against someone who has 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.

The information on this flyer is not legal advice.

If you are seeking representation or legal advice, please contact SEOLS.
An attorney-client relationship does not exist between you and SEOLS.

How to contact SEOLS:

Athens Office	740.594.3558 800.686.3669	New Philadelphia Office	330.339.3998 800.686.3670
Serving Gallia, Meigs, Morgan, Noble, Vinton, and Washington Counties		Serving Coshocton, Guernsey, Holmes, and Tuscarawas Counties	
Chillicothe Office	740.773.0012 800.686.3668	Portsmouth Office	740.354.7563 800.837.2508
Serving Fairfield, Fayette, Hocking, Jackson, Pickaway, Pike, and Ross Counties		Serving Adams, Lawrence, and Scioto Counties	
Newark Office	740.345.0850 888.831.9412	Steubenville Office	740.283.4781 800.837.4781
Serving Knox, Licking, Muskingum, and Perry Counties		Serving Belmont, Carroll, Harrison, Jefferson, and Monroe Counties	

IN THE _____ COURT
_____ COUNTY, OHIO

_____) **Case No.** _____
(Your Name)) (Leave Blank)
)
)
_____) **Judge** _____
(Your Address)) (Leave Blank)
)
)
_____) **COMPLAINT FOR REPLEVIN**
(Your City, State, and ZIP Code))
)
Plaintiff)
)
v.)
)
_____))
(Defendant's Name))
)
_____))
(Defendant's Address))
)
_____))
(Defendant's City, State, and ZIP Code))
)
Defendant)
)

FIRST CAUSE OF ACTION

1. I am a resident of Ohio and _____ County.
2. Defendant is a resident of Ohio and _____ County.
3. This Court has 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 _____
(list the reasons why you say you own the property)

6. Defendant took possession of property belonging to me on _____.
(date Defendant took your property)

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.

REQUEST 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 Defendant to return the property to me;

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

D. Grant me costs; and

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

Respectfully submitted,

(Sign Here)

(Your Name)

(Your Address)

(Your City, State, and ZIP Code)

(Your Telephone Number)

IN THE _____ COURT
_____ COUNTY, OHIO

_____) **Case No.** _____
(Your Name)) (Leave Blank)
)
)
_____) **Judge** _____
(Your Address)) (Leave Blank)
)
)
_____) **MOTION FOR ORDER OF**
(Your City, State, and ZIP Code)) **POSSESSION OF PROPERTY**
)
)
Plaintiff)
)
v.)
)
)
_____))
(Defendant's Name))
)
)
_____))
(Defendant's Address))
)
)
_____))
(Defendant's City, State, and ZIP Code))
)
Defendant)
)

Pursuant to Ohio Revised Code 2737.03, Plaintiff respectfully asks this Court to 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 where property is)
County to seize and deliver to Plaintiff or accompany Plaintiff in repossession of the following property now in possession of Defendant and wrongfully kept by Defendant:

(list property)

_____.

This Motion is filed because Defendant obtained possession of the property by

(describe how Defendant took your property)

Defendant has refused to return the property after being requested through a letter to do so. A copy of the letter is attached. As a result, Defendant continues to wrongfully retain the property.

For these reasons, Plaintiff respectfully requests that this Court grant this Motion and execute an Order of Possession.

Respectfully submitted,

(Sign Here)

(Your Name)

(Your Address)

(Your City, State, and ZIP Code)

(Your Telephone Number)

IN THE _____ COURT
_____ COUNTY, OHIO

_____) Case No. _____
(Your Name))
)
Plaintiff)
) **Judge** _____
v.)
)
) **AFFIDAVIT IN REPLEVIN**
_____)
(Defendant's Name))
)
Defendant)

STATE OF OHIO)
)
COUNTY OF _____)

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

1. I am the owner of the following 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)

4. I have attached a copy of any written instrument on which my ownership is based.

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 keeping my property.

8. The property was not taken by Defendant for a tax assessment, a fine pursuant to statute, or an 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

)	Case No. _____
Plaintiff)	
v.)	Judge _____
)	
Defendant)	NOTICE
)	

You are hereby notified that Plaintiff 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 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 _____ a.m. / p.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 double the value of the 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 Court

Date

IN THE _____ COURT
_____ COUNTY, OHIO

_____) Case No. _____
)
Plaintiff)
)
v.) Judge _____
)
_____)
) DEFENDANT'S REQUEST FOR
Defendant) 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 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 (OHIO REVISED CODE 2737.05).

IN THE _____ COURT
_____ COUNTY, OHIO

_____) **Case No.** _____
(Your Name)) (Leave Blank)
)
Plaintiff) **Judge** _____
) (Leave Blank)
v.)
) **PRAECIPE**
_____))
(Defendant's Name))
Defendant)

TO THE CLERK OF COURTS:

Please issue to 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,

(Sign Here)

(Your Name)

(Your Address)

(Your City, State, and ZIP Code)

(Your Telephone Number)

IN THE _____ COURT
_____ COUNTY, OHIO

_____) Case No. _____
))
))
))
Plaintiff))
))
v.))
))
))
_____))
))
Defendant))
))
))

This matter came to be hear on the Motion for Order of Possession filed by Plaintiff. At the hearing, _____ were present.

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

Judge

Submitted by Plaintiff

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)) **Case No.** _____
) (Leave Blank)
)
) **Plaintiff**) **Judge** _____
) (Leave Blank)
)
) **v.**)
) **AFFIDAVIT OF INABILITY TO**
) **PREPAY COURT COSTS**
)

(Defendant's Name))
)
) **Defendant**)

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

1. I am the plaintiff in this action.
2. I have a valid cause of claim but am unable to give either security or a cash deposit to secure costs.

Affiant

Sworn to and subscribed before me, a Notary Public, this ____ day of _____, 20____.

Notary Public

