

INSTRUCTIONS FOR REPLEVIN

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ A Replevin is a Court action in which one person (the Plaintiff) seeks to recover possession of personal property wrongfully taken or detained by another (the Defendant), plus money damages (if any) for the defendant's unlawful detention of the property.
- ◆ The claim amount is limited to the value of \$15,000.00 in County Court. If the value of the property exceeds \$15,000.00 you must file in District Court.
- ◆ For additional information, please review Rule 104 of the Colorado Rules of Civil Procedure or Rule 404 of the Colorado Rules of County Court Civil Procedure.
- ◆ Your case must be filed in the county in which the property is located.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Complaint: Document officially commencing the replevin process against a person who fails to return the property identified in the Complaint.
- ☒ Plaintiff(s): The person(s) or company filing a Complaint against another person or company.
- ☒ Defendant(s): The person(s) or company that the case is filed against.
- ☒ Service of Process: The official means by which a Defendant is notified that a lawsuit has been filed against him/her and provided a copy of the complaint and a description of the person's rights and obligations as a party to the case.
- ☒ May: In legal terms, "may" is defined as "optional" or "can."
- ☒ Shall: In legal terms, "shall" is defined as "required."

If you do not understand this information, please contact an attorney

FEES

The filing fee in County Court is \$97.00 in District Court it is \$224.00. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing.

Other fees that a party to the case may encounter are as follows:

- Answer Fee – County Court \$ 92.00
- Answer Fee – District Court \$158.00
- Certification Fee \$ 20.00
- Copy of Documents \$.75 per page
- Service Fees Varies (Not payable through or to the Court.)

FORMS

To access a form online go to www.courts.state.co.us and click on “Forms” tab. The packet/forms are available in PDF or WORD by selecting “County Civil – Replevin” or “District Civil – Replevin”. You may complete a form online and print or you may print it and type or print legibly in black ink. **Read these instructions carefully to determine what forms you may need.**

- | | |
|----------------------------------|--|
| <input type="checkbox"/> CRCCP 1 | Summons |
| <input type="checkbox"/> CRCCP 3 | Answer Under Simplified Civil Procedure |
| <input type="checkbox"/> JDF 98 | Affidavit of Service |
| <input type="checkbox"/> JDF 116 | Verified Complaint in Replevin |
| <input type="checkbox"/> JDF 117 | Order to Show Cause |
| <input type="checkbox"/> JDF 118 | Judgment and Order for Possession |
| <input type="checkbox"/> JDF 119 | Prejudgment Order for Possession After Hearing |
| <input type="checkbox"/> JDF 120 | Bond in Replevin |
| <input type="checkbox"/> JDF 121 | Writ of Assistance |

STEPS TO FILING YOUR CASE

Step 1: Complete appropriate forms.

Please refer to the list of required forms above to determine which forms must be submitted when filing your case based on your individual circumstances. The caption area below needs to be completed on all forms filed. Check with your local district for additional filing requirements. **Keep a copy of each form for your own records and make a copy to provide to the other party.**

<input type="checkbox"/> County Court <input type="checkbox"/> District Court _____ County, Colorado Court Address: _____ Plaintiff(s): (print your name here) v. Defendant(s): (print name here)		▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): (Print your name and address here if you are representing yourself.) Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____		Case Number: _____ Division _____ Courtroom _____
NAME OF FORM		

Verified Complaint in Replevin and Exhibit A (JDF 116).

- Fill in all the blanks on the Complaint form. You are the Plaintiff(s) and the person you are suing is the Defendant. If you are filing against multiple Defendants in the same action, list all of the Defendants.
 - In item six, state why you believe you are entitled to possession of the property; how the Defendant(s) took possession; and why you believe continued possession by the Defendant(s) is wrong.
- You will need to list all property on Exhibit A that you are seeking to have returned to you and the approximate value of each property item listed. You may list property by category (e.g. books or videos), but items of significant value (e.g. televisions, stereos, furniture, jewelry) should be separately listed item by item.
- If you have any documents that can prove your right to possession of the property (such as certificate of title, contract, bill of sale, etc.), refer to the documents in this paragraph, attach copies to the Complaint, and identify as “Exhibit B”. Keep the originals for presentation as evidence at trial.

- Summons (CRCCP Form 1) and Answer Under Simplified Civil Procedure (CRCCP Form 3).**
 - Complete the caption only on the Summons and Answer forms.
 - The Court will provide you with a case number, division, and courtroom when you file your case. When you receive this information enter it on both forms. In addition, enter the case number on the upper portion of the return of service, so that the Court can match this document to the appropriate case when filed back with the Court.
- Order to Show Cause (JDF 117).**
 - Complete the caption only on this form.
 - The Court will complete the applicable sections.
 - The Court will give you a hearing date, which should be scheduled within 7 to 14 days of your filing the Complaint.

Step 2: You are ready to file your case with the Court.

- Provide the Court with the documents completed as described in Step 1 above.
- Pay the filing fee.
- If the Complaint has not been signed in the presence of a Notary Public, you will sign the Complaint before the Clerk at this time.

Step 3: You are ready to have the Defendant(s) served.

You are responsible for paying the service fees, if any. Personal service must be made by someone who is 18 years or older and not a party to the action. Service must be completed at least 7 days before the appearance/answer date. Complete the following process based on the type of service selected:

Personal Service:

- Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older and not a party to the action and who knows the rules of service to serve each Defendant. There is a service fee that is payable to the Sheriff's Department or Private Process Server. The fee for service is usually awarded as part of your court costs if the court rules in your favor.
 - You can locate private process servers in the yellow pages under Process Servers.
 - Provide the person who will complete service a set of the following forms for each Defendant:
 - Summons (CRCCP 1), Verified Complaint in Replevin (JDF 116), Order to Show Cause (JDF 117), and Answer (CRCCP 3). In addition, attach the appropriate exhibits.
 - Provide the process server with an Affidavit of Service (JDF 98) for each Defendant.
 - The process server will return the original Summons to you with the Affidavit of Service completed.
 - Each Defendant must be served at least 7 days before the appearance day specified in the summons.

Step 4: Service is complete.

Return the original Summons (CRCCP Form 1) with proof of service (Affidavit of Service JDF 98) to the Clerk on or before the date you are to appear in Court.

Step 5: Show Cause Hearing.

Appear on your court date. If you fail to appear, your case may be dismissed.

- Be prepared for your hearing and bring the following forms.
 - Judgment and Order for Possession (JDF 118)
 - Prejudgment Order for Possession After Hearing (JDF 119)
 - Bond in Replevin (JDF 120)

Step 6: Court's Ruling.

At the conclusion of the hearing, the Court has several options. The following are the more common options:

- The Court may enter a Judgment and Order for Possession in your favor. If the Court does this, it means you have won your case, and the Defendant will be ordered to return the property to you. If this is the

result of your hearing, you should present to the Judge a Judgment and Order for Possession (JDF 118) for his/her signature. Attach a copy of 'Exhibit A' to the Order.

- The Court may enter a Prejudgment Order for Possession after Hearing, if it is determined that you are entitled to possession of the property pending a final hearing. If this is the result of your hearing, you should present to the Judge the Prejudgment Order of Possession after Hearing (JDF 119) for his/her signature. Attach a copy of 'Exhibit A' to the Order. The Court will set another hearing date for final resolution. In the interim, the Court's Order will direct the Sheriff's Office to take all the property from the Defendant and keep it in its custody until further order.
- The Court may require a bond before ordering the Sheriff to seize the property, to protect the rights of the parties. If you are required to post a bond, complete the Bond in Replevin (JDF 120).
- The Court may continue the hearing to another date to allow additional testimony.
- The Court may deny your request for possession on the grounds that the Court does not find that you are entitled to an Order for Possession. If the Court denies your claim, the Court may set your case for another hearing at which time you can bring additional proof of your right to possession, or judgment will be entered for the Defendant and your case will be dismissed.

Step 7: Following the Hearing.

What you need to do following the hearing depends upon how the Judge rules at the hearing.

- If the Judge ruled in your favor and awarded you a Judgment and Order for Possession (JDF 118), the Defendant may return the property to you. If the property is not returned, you will need to obtain from the Clerk of Court a certified copy of the Court's Order. You will need to prepare a Writ of Assistance (JDF 121) for the Clerk of Court to issue. Both documents must be provided to the Sheriff to seize the property and return it to you.
- If the Judge issued a Prejudgment Order for Possession After Hearing (JDF 119), you will need to obtain from the Clerk of Court a certified copy of that Order. You will need to provide a Writ of Assistance (JDF 121) for the Clerk of Court to issue. Both documents must be provided to the Sheriff to seize the property and return it to you. You and your witnesses will also need to attend any subsequent hearing that the Court may set.
- If the Judge continued the hearing to another date, you and your witnesses will need to attend at that time.
- If the Judge entered a judgment for the Defendant and dismissed your case, you have lost the case and will not be granted possession of the property.

Step 8: Return of the Property.

If the property is returned to you through the Sheriff's Office, the Sheriff's Office is entitled to payment of its fees and expenses for seizing and storing the property during the time prior to releasing the property to you. If you do pay such fees or expenses, you should take your receipt to the Clerk of Court's Office to be recorded as court costs, which may then be collected from the Defendant.

Step 9: Examine Your Property.

Once your property is returned to you, you should examine it carefully and make a complete inventory of what was returned. Determine whether all of your property has been returned and whether it is in the same condition as when it was taken. If any of your property is missing, or has been damaged or destroyed, you are entitled to make a supplemental application to the Court for an award of damages against the Defendant to pay for your loss.