

Pre-Judgment: Basic Steps for Handling a Small Claims Case for REPLEVIN (Recovery of Property)

A. Personal Property worth \$10,000 or less; OR
B. Consumer Credit Transactions with \$25,000 or less financed

Any forms mentioned in this basic guide may be obtained from the Clerk of Court or online at <http://www.wicourts.gov/forms1/circuit.htm>.

- 1. **Determine which type of replevin case to file and then decide in which county you will file your case.** Small Claims cases for recovery of property may be filed in any of three places:
 - A. Personal Property worth \$10,000 or less – use Summons and Complaint form (SC-500i):
 - The county where the claim arose,
 - The county where the property is located, or,
 - The county where the defendant (the party you are suing) lives or does business.
 - B. Consumer Credit Transactions – use Summons for Consumer Replevin form (SC-516):
 - Where the customer resides or is personally served,
 - Where the collateral (property) is located, or,
 - Where the customer sought or acquired the property.

- 2. **Fill out a Small Claims Summons and Complaint form or Summons for Consumer Replevin form.** The forms (SC-500i and SC-516) have step-by-step instructions on the left side. If you are filing a consumer credit replevin case, you must draft a complaint and attach it to the Summons. Once you have filled out the appropriate form, you should make at least two copies for each party you are suing and a copy for yourself.

- 3. **File the Summons and Complaint.** The Summons and Complaint and **all copies** must be filed and a fee paid to the Clerk of Court in the county where you are filing your case.

- 4. **Have each party you are suing served with a copy of the Summons and Complaint.** For the court to hear the case, each party must be provided with a copy of the Summons and Complaint far enough in advance of the first court date. The documents must be served by a sheriff or a private process server (“personal service”). See Pre-Judgment: Basic Steps to Small Claims Service (SC-6050V) for additional information.

- 5. **Complete an Affidavit of Nonmilitary Service (GF-175) for each party you are suing.**

6. **File your proof(s) of service and Affidavit(s) of Nonmilitary Service with the Clerk of Court.** File the Affidavit(s) of Nonmilitary Service and the proof(s) of service you received from the sheriff or private process server. File these documents with the Clerk of Court at or before the first court date according to local court rules.
7. **Attend the first court date.** All parties are required to attend the first court date. However, DEFENDANTS may be allowed to appear in writing or by telephone if a local rule grants that privilege. Follow the local court rules where your case is filed or your case may be dismissed. If the court grants you a judgment, skip to number 10 below and file the necessary paperwork.
8. **If there is a disagreement, the court will schedule a trial.** Before the trial, you may contact the other party to try to settle your case. Some counties require the parties attend mediation. If you reach an agreement, put your agreement in writing and file it with the Clerk of Court before the trial. You may use the form Stipulation and Order for Dismissal (Non-Eviction) (SC-5310V) to do this. If you have not reached an agreement before the trial, organize your paperwork and evidence in support of your claim and make enough copies for the court and all parties. If you have witnesses, arrange for them to attend. Practice what you are going to say. Make sure to follow local court rules for filing documents or statements before the trial.
9. **Attend the trial.** Be on time and be polite. Don't get emotional. Explain why the court should give you what you are asking for. The court will review your evidence and listen to your witnesses, if any. When the court makes its decision, listen carefully. See the instructional packet, Basic Guide to Wisconsin Small Claims Actions (SC-6000V) for additional information about preparing and participating at trial.
10. **Complete any post-decision activities.** If you are granted a judgment of replevin and you want the sheriff to help you recover the property, you must pay a fee to obtain a writ of replevin from the Clerk of Court. Take the writ to the sheriff. You will be required to pay a service fee to the sheriff. You may also be required to provide a bond to the sheriff. Contact the local sheriff's department for additional information.