

## Iowa Judicial Branch Instructions for Filing a Small Claims Action for Replevin

### I. Forms to Complete.

The forms you must use in Iowa Small Claims Court are available in fillable format on the Iowa Judicial Branch website under the “Court Rules and Forms” tab.

You (Plaintiff) will need the following forms to make a claim to have personal property returned to you:

#### A. Original Notice and Petition for Replevin (eForm 3.5).

1. At the top of the Original Notice form, fill in the name of the county where you are filing the lawsuit. You may bring the claim in any county where some of the property is located.
2. Fill in your full name and specific address where indicated.
3. Fill in defendant’s full name and the specific address where defendant can be located. If there is more than one defendant, you must include the full name of each defendant and each defendant’s current address.
4. **Do not** fill in the “Small Claims No.” blank or the telephone number blank in the disability assistance notice in the caption.
5. Paragraph 1: Fill in a description of the property you claim. State a value for the property.
6. Paragraph 2: **State a separate value for each item of property you are claiming.** The total value must be \$5,000 or less. You may list separate items of property and their values on a separate page if necessary.
7. Paragraph 3: You must explain what you are asking the court to do on your behalf regarding the property.
8. Paragraph 4: You must explain why you have a greater right to the property than Defendant does.
9. Paragraph 5: Check the first box unless you know defendant has possession of the property because of a court order or judgment.
10. If you want the property back immediately, you must post a bond with the clerk of court.
11. Electronically sign the Original Notice at the bottom of the page. Electronically file it in the county where you are.

For help registering and filing electronically, see the Iowa Judicial Branch website eFiling link and click on Training Documents, or go to the eFile (EDMS) Login page and click on User Guides and Training Documents.

- #### B. Verification of Account (Form 3.27).
- You must complete a separate Form 3.27 for each defendant. You must attach an itemized statement showing how you arrived at the amount of your claim.

The above forms must be electronically filed through the Iowa Judicial Branch eFiling website page. A filing fee of \$85.00 will be collected when you electronically file. To use these forms, your total claim cannot exceed \$5,000. The \$5,000 maximum claim does not include interest or court costs, and your total recovery could exceed \$5,000.

## **II. How to Serve the Forms.**

Each defendant must be informed of your lawsuit by receiving the Original Notice before a trial is held. When you electronically file your Small Claims Petition and Original Notice, the signed Petition and Original Notice, along with a conformed Small Claims Answer and Appearance to serve on each defendant is posted in the My Filings page of your eFiling account. You may serve each defendant with the Original Notice in the following manner:

- A. Service by Sheriff.** If you choose this method to serve defendant, contact the sheriff in the county where defendant resides to arrange for service. Some sheriffs will bill you for their services. Other sheriffs require an advance fee with the documents to serve. Contact the Civil Process Division of the Sheriff's Department in the county where defendant resides to confirm applicable fees for service.
- B. Certified Restricted Mail.** If you choose this method to serve defendant, you will be charged the \$85.00 filing fee and an additional \$10.00 for each party you wish to serve by certified mail.

## **III. What Happens After Filing Your Case.**

- A.** Defendant generally must file an Appearance and Answer (Form 3.11) within 20 days after receiving service of the Original Notice.
- B.** The clerk of court will set a hearing date.
- C.** If you receive the property from defendant before the hearing date, you must electronically file a Dismissal (eForm 3.18).
- D.** If defendant does not file an Answer within the allowed time, the court may enter a Default Judgment against defendant.
- E.** You must appear in person at the hearing unless a lawyer appears on your behalf. You should be prepared to produce proof of service on defendant. Bring with you any documents you want the judge or judicial officer to consider. If you have witnesses, make sure they are present at the hearing.
- F.** If the court enters judgment in your favor, an Execution may issue for the sheriff to return the property to you.
- G.** If you receive the property or payment from defendant after a judgment, you must file a Release and Satisfaction of Judgment (Form 3.23).
- H.** The clerk of court does not accept payments for any judgment amount, unless ordered by a judge or judicial officer. Payments should be made directly to the party entitled to the judgment amount or the party's attorney.

- I. If you disagree with the court's decision or judgment after hearing, you may file a Notice of Appeal (Form 3.26) with the appropriate filing fee. The court may require you to provide a bond to delay execution of the judgment.

**For more information, see Iowa Code chapter 643, the Iowa Judicial Branch website at [www.iowacourts.gov](http://www.iowacourts.gov), The Iowa State Bar Association website at [www.iowabar.org](http://www.iowabar.org), or the clerk of court office (clerks of court cannot give legal advice).**