

The Defendant's Response

Once served, a defendant may respond to your lawsuit by:

- attempting to negotiate a settlement,
- ignoring the complaint,
- filing a counterclaim against you,
- trying to get the case dismissed, and
- defending the case at the hearing and trial.

You have the option to negotiate a settlement before going to trial [see *Mediation: an Alternative" on the right*]. Be prepared at trial to provide evidence to support your claim and evidence to disprove any counter argument.

What Happens at the Hearing?

If you filed a replevin, the defendant will be served with the *Show Cause Order* and the complaint. A hearing will generally be scheduled within three weeks of the date that the order was issued. At the hearing, the judge will listen to both sides and decide what to do temporarily with the property prior to trial. If the *Show Cause Order* is granted, the plaintiff may be required to post bond in the amount of the value of goods being sought. A trial date will be set.

If you filed a detinue, no hearing will be held. You and the defendant will be notified of the trial date.

What Happens at the Trial?

Whether you filed a replevin or a detinue, at the trial you must be prepared to present your case; have any witnesses ready and available to testify; and offer evidence, exhibits, and material to support your claim.

You should maintain original documents of evidence in your files and present copies to the court, unless otherwise instructed. Evidence may be any documents, such as receipts, photographs, contracts or letters that support your claim. Exhibits may be documents that explain your claim.

If the defendant ignores the summons and fails to appear in court, you must still appear and present your evidence. The judge issues a verdict, awarding possession of the property and the amount of damages, if any.

Right to a Jury Trial

If you want a jury trial, the case will be transferred to circuit court.

Right to Appeal

Both parties have the right to appeal verdicts in District Court cases.

Mediation: an Alternative

The District Court's Alternative Dispute Resolution Program (ADR) offers mediation free of charge. It is less formal, time-consuming and costly than going to court. A trained mediator works with both sides to resolve the problem and come up with a mutually agreeable solution. If mediation proves unsuccessful, you may still seek resolution in court.

For more information, contact:

Alternative Dispute Resolution Office

Phone: (410) 260-1676

Fax: (410) 260-3536

www.mdcourts.gov/district/adr/home.html

For more information about the Maryland Judiciary and the District Court visit the website, at:

www.mdcourts.gov

It is the mission of the District Court of Maryland to provide equal and exact justice for all who are involved in litigation before the court.

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DC/CV 4BR (Rev. 8/2010)



Replevins and Detinues

How to File
a Claim
for the
Return of
Your Property

- ✓ You own a furniture rental company and a customer has not paid the rental fee. How do you get the furniture back?
- ✓ Your former roommate damaged your television. Can you get compensated?

What are Replevins and Detinues?

A replevin is a legal action that allows you to seek the immediate return of property prior to a trial. A detinue seeks the return of property or compensation for its value, but does not allow for a hearing prior to trial to determine immediate possession of property.

Both a replevin and a detinue require a trial to determine who is the rightful owner of the property and any possible damages.

Replevin

Seeks the return of property and possible damages. You may be required to file:

1. *Complaint* (form DC/CV1),
2. *Proof of Service* (form DC/CV 2), and
3. *Show Cause Order* (form DC/CV4).

These forms are filed in the District Court, regardless of the amount in dispute. This action provides for a Show Cause hearing where immediate possession of property may be determined prior to a trial.

Detinue

Seeks the return of property or compensation for its value and possible damages. This action requires only the filing of the *Complaint* form.

You file in District Court for actions up to \$5,000. If the claim is between \$5,000 and \$30,000, the form may be filed in either the District or a circuit court. Detinues for more than \$30,000 must be filed in a circuit court.

Do You Need a Lawyer?

Filing either a replevin or a detinue does not require the services of a lawyer. However, a lawyer will offer you legal advice and protect your interests before the court.

You should consider your skills in explaining your case to the judge, your understanding of the law, and your willingness to spend time and resources on the case. Corporations and other business entities are required to be represented by a lawyer.

How to File a Claim

Filing a replevin or detinue requires four steps:

1. You [the plaintiff] file with the court the *Complaint* form. In the case of a replevin, you also must file the *Request for Service* and the *Show Cause Order*.
2. You pay the filing fee. A fee also may apply if you want the court to “serve” the defendant with the summons.
3. The court issues a *Writ of Summons* and/or a *Show Cause Order* to officially notify the defendant that a suit has been filed.
4. Proof is submitted to the court that the defendant has been served the summons.

How to Complete a Complaint Form

The *Complaint* form details the most important facts about your case; it tells the court:

- the name and address of the person(s) or business bringing the suit,
- the name and address of the person(s) or business against whom you are filing,
- why you are filing the claim, and
- the remedy you are seeking (return of property, replacement value, damages, etc.).

It is important to use proper and complete names and addresses. If filing against a business, always use the full, formal business name and include the name of the person to be served.

Be sure that all information is accurate; mistakes could cause your case to be delayed or dismissed. If you have questions about the form, speak to a District Court clerk or see the Court’s Small Claims brochure.

How to Serve the Summons

In order for your case to be heard in court, the defendant must be served the proper forms within the time frame specified and according to the law. The summons can be served only by certified mail, private process server (a person or business hired to deliver the summons) or by a sheriff or constable. If you are serving the defendant by private process server, it is your responsibility to notify the court that the defendant has been served properly. Failure to serve a summons properly may lead to dismissal of the case.

For more information about the Maryland Judiciary and the District Court, visit our website www.mdcourts.gov