

Complaint for the Unlawful Detention of a Chattel

STATE OF INDIANA, COUNTY OF MARION, §:

Plaintiff: (Name, address & phone #)

VS.

Defendant: (Name, address & phone #)

In the MARION COUNTY
SMALL CLAIMS COURT
WAYNE TOWNSHIP DIVISION
5401 W. WASHINGTON STREET
INDIANAPOLIS, INDIANA 46241
Phone: (317) 241-9573
Fax: 317-248-7917

CAUSE NO. 49K08-_____-SC-_____

The said plaintiff complains of the defendant and says: that he/she/it is the owner and entitled to possession of:

MERCHANDISE NAME	SERIAL/MODEL #	ACTUAL VALUE OF MERCH.	BACK RENT DUE

of the value of _____ dollars (\$_____),
of which the defendant has the possession without right, and which is unlawfully detained from him by the
defendant; that demand has been made upon said defendant; and that the same has not been taken by virtue
of an execution or other writ against the plaintiff.

WHEREFORE plaintiff demands judgement for the recovery of said property or the value thereof, and
_____ dollars (\$_____) for damages
for the detention thereof court costs and all other proper relief.

Dated: _____ Plaintiff: _____

TO ANY CONSTABLE OF THIS TOWNSHIP:

You are hereby commanded to summon Above Defendant(s) to appear before me in court on
_____ at _____ o'clock __.M. to answer the plaintiff in a hearing on the above
claim and to make due return of this notice of claim.

Dated: _____ Judge: _____

Important Information Concerning this Claim

A Plaintiff or Defendant ("a party") may appear by an attorney in this case for claims up to \$10,000.00 plus court cost. If a party is a person, he or she may represent himself or herself without an attorney. If a party is a sole proprietorship or a general partnership, the party may appear by the sole proprietor or by a general partner. If a party is a corporation, a limited liability company(LLC), a limited liability partnership (LLP), or a trust the party may appear by a full-time employee for claims up to \$6,000.00 as the party's Ind. Small Claims Rule 8(C) representative. U.S. Bureau of Labor Statistics says a person is a full-time employee, if the employee works at least 35 hours per week. The salary or wages would be reported on a W-2.

A party should bring to the trial all documents in the party's possession or control relating to this case.

If a party is unable to appear at the initial, the party may file a written motion for continuance with the Clerk of the Wayne Township Small Claims Court, at the address on the 1st page, explaining why the parties is unable to attend the hearing. A motion to continue a hearing should be filed at least 48 hours before the hearing. **Continuance of 1st hearing is seldom granted.** If the Defendant does not appear at the final hearing, a default judgment may be entered against the Defendant. (LR49-SC09-301)

The Plaintiff waived the Plaintiff's right to a jury trial when the case is filed. The Defendant may request a jury trial by submitting a written request to the Court within 10 days after receiving the Notice of Claim and paying the additional amount required by statute to transfer this case to the Marion County Circuit or Superior Court's plenary docket, within ten days after the jury trial request is granted. If the written request is not filed on time and if the additional court cost is not paid on time or waived, the Defendant's right to jury trial is waived. (LR49-TP38-303)

If the Defendant has a claim against the Plaintiff, the Defendant may file a Counter-Claim under this cause number. If the Plaintiff does not receive the Defendant's Counter Claim at least seven (7) days prior to the trial, the Plaintiff may request a continuance of the trial date.

You may learn more about the Small Claims Rules and read the Indiana Small Claims Manual online at <http://www.on.gov/judiciary/>. Type "Indiana Small Claims Manual" in the search block and you may download the Manual. You may also pick up a copy from the Clerk.

CONSTABLES RETURN OF SERVICE OF NOTICE OF CLAIM:

I certify that I have served this notice of claim on _____

1) By delivering notice of claim to the defendant, _____

2) By leaving a copy of the notice of claim at _____ which is the dwelling place or usual place of abode of _____ and by mailing a copy of the notice of claim to said defendant at such address.

3) Other service remarks: _____

Constable

STATE OF INDIANA, COUNTY OF MARION, §:
WAYNE TOWNSHIP SMALL CLAIMS COURT OF MARION COUNTY

PLAINTIFF

CAUSE NUMBER 49K08 _____ SC _____

Vs

DEFENDANT

ORDER SETTING HEARING

The Plaintiff having filed their Complaint for Possession of a Chattel, the Court finds said matter should be set for hearing.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that this matter shall be heard on the _____ day of _____, 20____ at 8:30am. If you fail to appear, the matter will be heard in your absence.

You shall appear for the purposes of controverting this affidavit or to otherwise show cause why:

- 1)A pre-judgement order of possession should not issue; and
- 2)The property should not be delivered to Plaintiff.

You may

- 1)File affidavits on your behalf with the court;
- 2)Appear and present testimony on your behalf at the time of the hearing; and
- 3)File with the court a written undertaking to stay the delivery of the property.

If you fail to appear, Plaintiff may be granted possession.

DATE

JUDGE, WAYNE TOWNSHIP SMALL
CLAIMS COURT OF MARION COUNTY

Constable please serve:

AFFIDAVIT

Comes now _____ who being duly sworn upon his/her oath does state:

1) That I am the plaintiff/representative of plaintiff in this action.

2) That I am either the owner of the property listed in the Complaint for the Unlawful Detention of a Chattel or is lawfully entitled to the possession of said property because:

3) That the property was taken for a tax, assessment, or fine under a statute or seized under an order of execution or attachment.

4) That the property has been wrongfully taken and is unlawfully detained by the defendant.

5) That the property as described on the face of the Complaint is incorporated herein.

6) The estimated value of said property is as stated on the Complaint.

7) The property is currently located in _____ County, Indiana, at the address of _____, that I know the property to be at the above address because

I affirm under the penalty of perjury that the foregoing representations are true.

Signature

Printed Name

AFFIDAVIT FOR PRE-HEARING POSSESSION

Comes now _____ who being duly sworn upon his oath does state:

1) That they are the plaintiff/representative of plaintiff in this action.

2) That they have personal knowledge of the matters stated herein.

3) That the property is: (check any that apply)

- ☐ Perishable, and will perish before any Noticed hearing can be had;
- ☐ In immediate danger of destruction, serious harm, concealment, removal from Indiana, or sale to an innocent purchaser; or
- ☐ Held by a person who threatens to destroy, harm, or conceal the property, remove the property from Indiana, or sell the property to an innocent purchaser.

4) Or that,

- ☐ Defendant gained possession of the property by theft or criminal conversion.
- ☐ The property consists of one or more negotiable instruments or credit cards.

I affirm under the penalties of perjury that the foregoing representations are true.

Signature

Printed Name

Wayne Township Small Claims Court
Judge Gerald B. Coleman
Preparing your Small Claims Case for Trial

- 1) Your opening statement should summarize the nature of your claim and the damages you have suffered because of injury, breach of contract, or whatever basis for your claim and why the other person is at fault.
- 2) Bring your evidence (Exhibits) to prove your case! This may be a written contract, Receipts, Letters, Estimates in writing, Repair Orders, Photographs, Canceled Checks, Account Books, Advertisements, Warranties, Service Contracts, or other documents.
- 3) Ask your witnesses to come to court. If a witness does not want to attend, you may request that the clerk issue a subpoena ordering the witness to appear.
- 4) Arrange your Exhibits in a clear understandable manner. Number all of your exhibits (1, 2, 3, etc.). If you are the defendant, use letters instead of numbers (a, b, c, etc.).
- 5) Bring two copies of all Exhibits that you intend to submit to the Court for your case, one copy for the court and one copy for the opposing party.
- 6) The Court cannot look at any evidence on your telephone, laptop or tablet so you must print out any evidence if you want the Court to consider it.**
- 7) Consider practicing your presentation in front of someone or a mirror. You can also come visit a small claims session to see how cases are conducted.

This is your one opportunity to present your case. Make it count!