

# Form 1.995 Final Judgment of Replevin

**NOTE APPLICABLE TO FORMS (a)-(d):** The address of the person who claims a lien as a result of the judgment must be included in the judgment in order for the judgment to become a lien on real estate when a certified copy of the judgment is recorded. Alternatively, an affidavit with this information may be simultaneously recorded. For the specific requirements, see section 55.10(1), Florida Statutes; Hott Interiors, Inc. v. Fostock, 721 So. 2d 1236 (Fla. 4th DCA 1998). The address and social security number (if known) of each person against whom the judgment is rendered must be included in the judgment, pursuant to section 55.01(2), Florida Statutes. However, for privacy reasons, only the last 4 digits of the social security number should be shown.

## **(a) Judgment in Favor of Plaintiff when Plaintiff Has Possession.**

### FINAL JUDGMENT OF REPLEVIN

This matter was heard on plaintiff's complaint. On the evidence presented

IT IS ADJUDGED that:

1. Plaintiff, .....(name and address)....., has the right against defendant, .....(name and address, and last 4 digits of social security if known)....., to retain possession of the following described property:

(list the property and include a value for each item)

2. Plaintiff shall recover from defendant the sum of \$..... as damages for the detention of the property and the sum of \$..... as costs, making a total of \$....., which shall bear interest at the rate of .....% per year, for which let execution issue.

ORDERED at ....., Florida, on .....(date).....

Judge

**NOTE:** This form applies when the plaintiff has recovered possession under a writ of replevin and prevailed on the merits. Pursuant to section 78.18, Florida Statutes (1995), paragraph 2 of the form provides that the plaintiff can also recover damages for the wrongful taking and detention of the property, together with costs. Generally these damages are awarded in the form of interest unless loss of use can be proven. *Ocala Foundry & Machine Works v. Lester*, 49 Fla. 199, 38 So. 51 (1905).

If the defendant has possession of part of the property, see form 1.995(b).

**(b) Judgment in Favor of Plaintiff when Defendant Has Possession.**

FINAL JUDGMENT OF REPLEVIN

This matter was heard on plaintiff's complaint. On the evidence presented

IT IS ADJUDGED that:

1. Plaintiff, .....(name and address)....., has the right against defendant, .....(name and address, and last 4 digits of social security number if known)....., to possession of the following described property:

(list the property and include a value for each item)

for which the clerk of the court shall issue a writ of possession; or

2. Plaintiff shall recover from defendant [if applicable add "and surety on the forthcoming bond"] the sum of \$..... for the value of the property, which shall bear interest at the rate of .....% per year, for which let execution issue.
3. Plaintiff shall recover from defendant the sum of \$..... as damages for the detention of the property and the sum of \$..... as costs, making a total of \$....., which shall bear interest at the rate of .....% per year, for which let execution issue.

ORDERED at ....., Florida, on .....(date).....

Judge

**NOTE:** This form applies when the plaintiff prevails on the merits and the defendant retains possession of the property. Section 78.19, Florida Statutes (1995), allows the plaintiff to recover the property or its value or the value of the plaintiff's lien or special interest. The value for purposes of paragraph 2 is either the value of the property or the value of the plaintiff's lien or special interest.

Paragraph 3 of the form provides for damages for detention only against the defendant because the defendant's surety obligates itself only to ensure forthcoming of the property, not damages for its detention.

Pursuant to section 78.19(2), Florida Statutes, paragraphs 1 and 2 of the form provide the plaintiff the option of obtaining either a writ of possession or execution against the defendant and defendant's surety on a money judgment for property not recovered. *Demetree v. Stramondo*, 621 So. 2d 740 (Fla. 5th DCA 1993). If the plaintiff elects the writ of possession for the property and the sheriff is unable to find it or part of it, the plaintiff may immediately have execution against the defendant for the whole amount recovered or the amount less the value of the property found by the sheriff. If the plaintiff elects execution for the whole amount, the officer shall release all property taken under the writ.

If the plaintiff has possession of part of the property, see form 1.995(a).

**(c) Judgment in Favor of Defendant when Defendant Has Possession under Forthcoming Bond.**

FINAL JUDGMENT OF REPLEVIN

This matter was heard on plaintiff's complaint. On the evidence presented

IT IS ADJUDGED that:

1. Defendant, .....(name and address)....., has the right against plaintiff, .....(name and address, and last 4 digits of social security number if known)....., to possession of the following described property:

(list the property and include a value for each item)

2. Defendant retook possession of all or part of the property under a forthcoming bond, and defendant's attorney has reasonably expended ..... hours in representing defendant in this action and \$..... is a reasonable hourly rate for the services.
3. Defendant shall recover from plaintiff the sum of \$..... for the wrongful taking of the property, costs in the sum of \$....., and attorneys' fees in the sum of \$....., making a total of \$....., which shall bear interest at the rate of .....% per year, for which let execution issue.

ORDERED at ....., Florida, on .....(date).....

Judge

**NOTE:** This form applies when the defendant prevails and the property was retained by or redelivered to the defendant. Section 78.20, Florida Statutes (1995), provides for an award of attorneys' fees. The prevailing defendant may be awarded possession, damages, if any, for the taking of the property, costs, and attorneys' fees.

If the plaintiff has possession of part of the property, see form 1.995(d).

**(d)Judgment in Favor of Defendant when Plaintiff Has Possession.**

FINAL JUDGMENT OF REPLEVIN

This matter was heard on plaintiff's complaint. On the evidence presented

IT IS ADJUDGED that:

1. Defendant, .....(name and address)....., has the right against plaintiff, .....(name and address, and last four digits of social security number if known)....., to recover possession of the following described property:

(list the property and include a value for each item)

for which the clerk of the court shall issue a writ of possession; or

2. Defendant shall recover from plaintiff [if applicable add “and surety on plaintiff’s bond”] the sum of \$..... for the value of the property, which shall bear interest at the rate of .....% per year, for which let execution issue.
3. Defendant shall recover from plaintiff the sum of \$..... as damages for detention of the property and the sum of \$..... as costs, making a total of \$....., which shall bear interest at the rate of .....% per year, for which let execution issue.

ORDERED at ....., Florida, on .....(date).....

Judge

**NOTE:** This form should be used when the defendant prevails but the plaintiff has possession of the property. Section 78.21, Florida Statutes (1995), does not provide for an award of attorneys’ fees when the defendant prevails and possession had been temporarily retaken by the plaintiff. Sections 78.21 and 78.19 allow the defendant to recover the property or its value or the value of the defendant’s special interest.

Paragraphs 1 and 2 of the form provide to the defendant the option of obtaining either a writ of possession or execution against the plaintiff and plaintiff’s surety on a money judgment for property not recovered and costs. *Demetree v. Stramondo*, 621 So. 2d 740 (Fla. 5th DCA 1993). If the defendant elects the writ of possession for the property and the sheriff is unable to find it or part of it, the defendant may immediately have execution against the plaintiff and surety for the whole amount recovered or the amount less the value of the property found by the sheriff. If the defendant elects execution for the whole amount, the officer shall release all property taken under the writ.

If the defendant has possession of part of the property, see form 1.995(c).