File No.

STATE OF NORTH CAROLINA

_____ County

In The General Court Of Justice
District Court Division - Small Claims

COMPLAINT TO RECOVER POSSESSION OF PERSONAL PROPERTY

☐ PLAINTIFF A SECURED PARTY
☐ PLAINTIFF NOT A SECURED PARTY

G.S. 7A-232; 25-9-609

Spoken Language Court Interpreter Needed For Any Party, Victim, Or Witness? (If Yes, identify person(s) and language(s). Interpreters provided for all court proceedings at no cost.) ☐ No ☐ Yes: *(explain)*

Name And Address Of Plaintiff

County | *Telephone No.*

VERSUS

Name And Address Of Defendant 1 ☐ *Individual* ☐ *Corporation*

County | *Telephone No.*

Name And Address Of Defendant 2 ☐ *Individual* ☐ *Corporation*

County | *Telephone No.*

Name And Address Of Plaintiff's Attorney

Attorney Bar No.

WHEN PLAINTIFF IS A SECURED PARTY

The defendant is a resident of the county named above. I have a security interest in the personal property described in the attached security agreement. The total current value of this property is as shown below. The defendant has defaulted in the payment of the debt which the property secures or has otherwise breached the terms of the security agreement giving me the right to claim immediate possession of the property described below. I demand recovery of this property and reimbursement for court costs.

Description Of Personal Property In Which You Have A Secured Interest (attach copy of security agreement)

Total Value Of Property To Be Recovered

$

Date | *Signature Of Plaintiff Or Attorney*

WHEN PLAINTIFF IS NOT A SECURED PARTY

The defendant is a resident of the county named above. The defendant has in his/her possession the personal property described below which belongs to me. I am entitled to immediate possession of the property, but the defendant has refused on demand to deliver it to me. The defendant has unlawfully kept possession of this property since the date listed below and has therefore deprived me of its use. The damage due me for the loss of use and physical damage to the property is set out below. I demand recovery of this property and damages in the total amount set out below, plus interest and reimbursement for court costs.

Description Of Personal Property You Own Which Is In Possession Of Defendant

Total Value Of Property To Be Recovered

$

Date Defendant Wrongfully Took Or Kept Property

Damage Due For Loss Of Use	$
Physical Damage To Property	$
Total Amount Of Damages	$

Date | *Name Of Plaintiff Or Attorney (type or print)* | *Signature Of Plaintiff Or Attorney*

Original - File Copy - Each Defendant Copy - Attorney/Plaintiff

(Over)

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INSTRUCTIONS TO PLAINTIFF OR DEFENDANT

THE CLERK OR MAGISTRATE CANNOT ADVISE YOU ABOUT YOUR CASE OR ASSIST YOU IN COMPLETING THIS FORM. IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT AN ATTORNEY.

1. The PLAINTIFF must file a small claim action in the county where at least one of the defendants resides.

2. The PLAINTIFF cannot sue in small claims court to recover property worth more than $10,000.00. This amount may be lower, depending on local judicial order. If the amount is lower, it may be any amount between $5,000.00 and $10,000.00, as determined by the chief district court judge of the judicial district.

3. The PLAINTIFF must show the complete name and address of the defendant to ensure service on the defendant. If there are two defendants and they reside at different addresses, the plaintiff must include both addresses. The plaintiff must determine if the defendant is a corporation and sue in the complete corporate name. If the business is not a corporation, the plaintiff must determine the owner's name and sue the owner.

4. The PLAINTIFF may serve the defendant(s) by mailing a copy of the summons and complaint by registered or certified mail, return receipt requested, addressed to the party to be served or by paying the costs to have the sheriff serve the summons and complaint. If certified or registered mail is used, the plaintiff must prepare and file a sworn statement with the Clerk of Superior Court proving service by certified mail and must attach to that statement the postal receipt showing that the letter was accepted.

5. The PLAINTIFF must pay advance court costs at the time of filing this Complaint. In the event that judgment is rendered in favor of the plaintiff, court costs may be charged against the defendant.

6. The DEFENDANT may file a written answer, making defense to the claim, in the office of the Clerk of Superior Court. This answer should be accompanied by a copy for the plaintiff and be filed no later than the time set for trial. The filing of the answer DOES NOT relieve the defendant of the need to appear before the magistrate to assert the defendant's defense.

7. Whether or not an answer is filed, the PLAINTIFF must appear before the magistrate.

8. The PLAINTIFF or the DEFENDANT may appeal the magistrate's decision in this case. To appeal, notice must be given in open court when the judgment is entered, or notice may be given in writing to the Clerk of Superior Court within ten (10) days after the judgment is entered. If notice is given in writing, the appealing party must also serve written notice of appeal on all other parties. The appealing party must PAY to the Clerk of Superior Court the costs of court for appeal within twenty (20) days after the judgment is entered. A defendant who appeals also must post a bond to stay execution of the judgment within ten (10) days after the judgment is entered.

9. This form is supplied in order to expedite the handling of small claims. It is designed to cover the most common claims.

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