

## CLAIM AND DELIVERY

Claim and delivery is an action for the recovery of specific personal property wrongfully taken or withheld from its rightful owner, with recovery of any damages resulting from the taking or possession of the property. Claim and delivery may not be used to recover ownership of real property, but may only be used to recover goods or personal property. The party who begins the action is the plaintiff. The party who has possession of the property claimed is the defendant. The jurisdictional limit of Magistrates' Court is \$7,500. If the subject property is valued at more than \$7500, you will need to file your claim and delivery action in the Court of Common Pleas.

The following is a list necessary items for your claim and delivery filing.

1. You must own the property or have a security interest in the property; must be entitled to immediate possession of the property.
2. You must provide a detailed description of the property.
3. The claim and delivery must be filed with the court that has jurisdiction over where the property is located.
4. You must pay a filing fee of sixty-five dollars (\$65.00) when you file the action.
5. A valid address for the party who has possession of the property must be provided to the Court at the time of filing.

Once the affidavit is filed, the court will provide you with a court date. A deputy will serve a copy of the affidavit along with a summons setting forth the court date on the defendant. A restraining order will be included within the summons forbidding the defendant from concealing, damaging, or disposing of the property. If the restraining order is violated, the defendant may be held in contempt of court and punished accordingly. At the hearing, the Court will determine if the Plaintiff is entitled to the items listed in the complaint. If needed, the Court can issue an Order to pick up the items. This will cost an additional twenty (\$20.00) dollars, which can be paid immediately following the hearing.

STATE OF SOUTH CAROLINA )  
COUNTY OF JASPER )  
)  
)  
\_\_\_\_\_)  
PLAINTIFF(S) )  
\_\_\_\_\_)  
ADDRESS )  
\_\_\_\_\_)  
PHONE NUMBER )  
\_\_\_\_\_)  
EMAIL ADDRESS )  
VS. )  
)  
\_\_\_\_\_)  
DEFENDANT(S) )  
\_\_\_\_\_)  
ADDRESS )  
\_\_\_\_\_)  
PHONE NUMBER )  
\_\_\_\_\_)  
EMAIL ADDRESS )

\_\_\_\_\_  
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT  
AFFIDAVIT TO RECOVER  
PERSONAL PROPERTY

Plaintiff(s), \_\_\_\_\_, personally appearing before me, who being duly sworn, states the following:

1. The plaintiff is the owner, or is entitled to possession, of the property described below: (Give detailed description of each item with estimated value):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The property described above is being wrongfully withheld by the defendant(s) above named.

3. To the best knowledge of the plaintiff, the property is being withheld by the defendant(s) because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The property has not been taken for any tax, fine or assessment pursuant to statute, or seized by virtue of an execution or attachment against the property or, if so seized, it is exempt from such seizure by statute.

5. The actual value of the above described property is: (Itemize and give total if more than one item involved.)

**TOTAL \$** \_\_\_\_\_

6. That the Notice of Right to Cure as required by Section 37-5-110 and Section 37-5-111, Code of laws of South Carolina, 1976, as amended, has been given by (or not required):

\_\_\_\_\_ on \_\_\_\_\_.

**PLAINTIFF ASKS THE COURT:**

To grant a judgment for permanent possession of the property and if return cannot be had for a monetary judgment for the value of the property listed above plus punitive damages for the wrongful withholding plus the costs of this action.

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
**Plaintiff (or his attorney or agent)**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF \_\_\_\_\_ )  
 )  
 \_\_\_\_\_ )  
 PLAINTIFF(S) )  
 )  
 VS. )  
 )  
 \_\_\_\_\_ )  
 DEFENDANT(S) )

\_\_\_\_\_  
 CIVIL CASE NUMBER  
 \_\_\_\_\_  
 IN THE MAGISTRATE'S COURT  
 \_\_\_\_\_  
 AFFIDAVIT AND ITEMIZATION  
 OF ACCOUNTS

Plaintiff, \_\_\_\_\_, personally appearing before me, who, being duly sworn, states that he is the plaintiff in this action, and that the itemization of accounts which follows is true and correct.

He further states that no part of the sum included in the itemization below has been paid or satisfied in any fashion, and is today due and owed to him.

ITEMIZATION OF ACCOUNTS

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
	TOTAL \$ _____

(Copies of bills, papers or other proof of any of the above accounts should be attached to this document.)

Sworn to and Subscribed before me )  
 this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_. )  
 )  
 \_\_\_\_\_ )  
 Magistrate or Notary Public for South Carolina )  
 )  
 My Commission expires \_\_\_\_\_ )

\_\_\_\_\_  
 PLAINTIFF (or his attorney)

