

Michigan Judicial Institute

District Court Case Processing: *Miscellaneous Civil*

Material Prepared and Presented by:

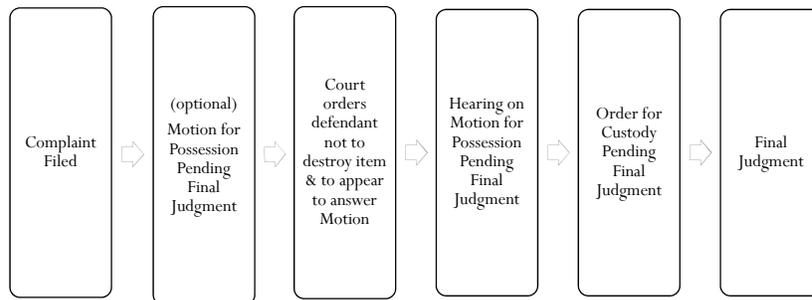
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Participant Materials
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Miscellaneous Claims

- Claim and Delivery
- Dangerous Animal
- Abandoned Vehicles
- DNR Condemnation/Confiscation

Claim and Delivery



Claim and Delivery

- MCR 3.105
- Action to recover goods which have been unlawfully taken/detained and damages because of the unlawful taking
- Sometimes called “replevin”
- A claim and delivery action is subject to the rules applicable to civil actions
- Case Type Code
 - Use GZ if no money judgment is requested
 - Use GC if money judgment is requested
- The plaintiff files a complaint for claim and delivery.
 - May include a supplemental complaint for money damages.
 - Charge supplemental filing fee, in addition to \$65 claim and delivery fee
- The defendant files an answer to the complaint.

Claim and Delivery

- Possession Pending Final Judgment
 - *Motion for possession pending final judgment* may be filed by the plaintiff after the complaint is filed.
 - Used when plaintiff believes the property will be destroyed before final judgment
 - Is there a motion fee? Not if filed at same time as complaint.
 - *Court order pending hearing*: If good cause shown, the court must order the defendant to refrain from destroying the property and appear before the court to answer the motion
 - *Hearing on the motion for possession*: At least 7 days before the hearing, the defendant must be served with the motion and the order entered pending the hearing.

Claim and Delivery

- *Order for Custody Pending Final Judgment*: After hearing the plaintiff's motion for possession pending final judgment, the court may order whatever relief the evidence requires.
 - Leaving the defendant in possession but order the defendant to furnish a penalty bond payable to plaintiff
 - Ordering the sheriff or court officer to seize the property and either hold it or deliver it to plaintiff.
 - Seizure rules apply MCR 3.105(F)

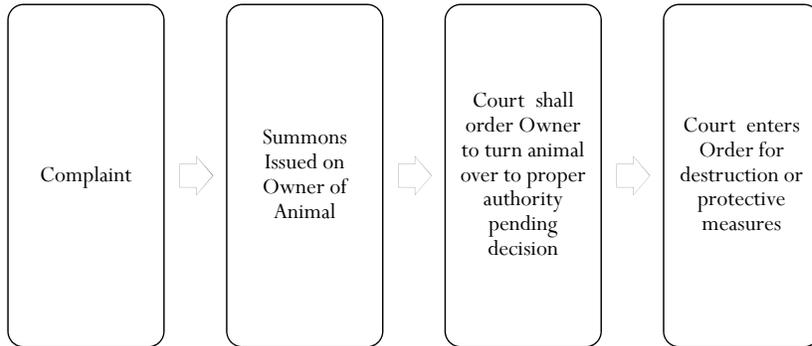
Claim and Delivery

- Judgment
 - Determines who is entitled to possession of the property, the value, amount of any unpaid debt and any damages to be awarded.
 - Orders the property to be immediately delivered to the prevailing party
- Costs
 - Court may order the prevailing party's costs, including the cost of seizing and keeping the property

Claim and Delivery

- Execution/Order to Seize Property
 - Commands the sheriff or court officers to seize the property described in the judgment and deliver to the prevailing party or, if property is not found, to levy the value of it.
 - Execution may not issue on a judgment if more than 28 days have passed from the date the judgment was signed, unless:
 - Plaintiff files a motion and a hearing is held after the defendant has been given notice/opportunity to appear.

Dangerous Animal



Dangerous Animal

- Action begins with a sworn complaint alleging an animal to be dangerous because of one of the reasons listed in MCL 287.286a or 287.322.
 - For example, the animal has caused serious injury or death to a person.
- Summons is then issued to the owner of the animal to appear and show cause why the animal should not be destroyed
 - The summons may be served anyplace within the county in which the damage occurred, and shall be made returnable not less than 2 nor more than 6 days from the date stated in the summons and shall be served at least 2 days before the time of appearance mentioned in the summons. MCL 287.280.
- Court shall order the animal to be turned over to animal control until a decision is made at the hearing. MCL 287.322(2).
- After the hearing and if animal is found to be dangerous
 - Shall order destruction if serious injury/death
 - May order destruction if did not cause serious injury/death, but likely to or in past was adjudicated a dangerous animal
 - If did not cause serious injury/death and no finding regarding likelihood or past adjudication, then shall order protective measures

Abandoned Vehicles



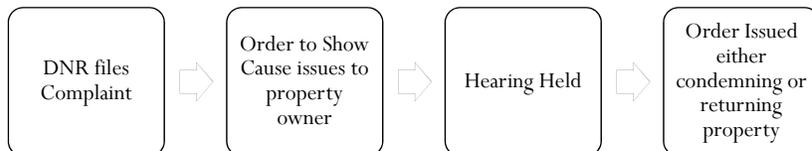
Abandoned Vehicles

- Process for a vehicle owner to contest the abandonment process or reasonableness of towing and storage fees under MCL 257.252a
- Department of State sends Notice to owner/secured party when vehicle taken into custody
- Within 20 days after the date of Notice, owner may file petition with the court
 - TR-52P form (generated by DOS) or the DC90 form
- \$65 filing fee, GZ case type
- Bond:
 - For a vehicle towed pursuant to MCL 257.252a or 257.252d, the court is required to collect a bond in the amount of \$40 plus accrued towing and storage fees when a petition is filed, unless the accrued towing and storage fees have already been paid by the vehicle owner.
 - For a vehicle towed pursuant to MCL 257.252b, if the owner wishes to obtain release of the vehicle, the court is required to collect a bond in the amount of \$40, plus accrued towing and storage fees, unless the accrued towing and storage fees have already been paid by the vehicle owner.

Abandoned Vehicles

- Court schedules a hearing within 30 days.
 - Court notifies the owner, towing agency, police agency or private property owner of the time/place of hearing. MCL 257.252f
- Court holds the hearing before the judge
- Decision is made and order entered
- Owner has 20 days after the hearing to redeem the vehicle from the custodian

DNR Condemnation/Confiscation



DNR Condemnation/Confiscation

- DNR department or officer may file a complaint against a person for violating laws described in MCL 324.1601
 - Do not need the prosecuting attorney's authorization
 - District court has jurisdiction if property confiscated does not have an appraised value exceeding \$25,000
- When the complaint is filed, an order to show cause issues to the property owner

DNR Condemnation/Confiscation

- The show cause order commands owner to appear and sets forth the substance of the complaint and the date/time for the hearing
- The show cause order is served on the owner not less than 7 days before the complaint is to be heard. MCL 324.1604(2)
 - If owner not known, then use posting (and registered mail) or publication (and registered mail) or other manner as court directs
- At the hearing, the court determines whether or not the property was caught/killed/possessed/shipped or used contrary to law
- Order may be entered condemning or confiscating property, or returning to owner if no violation found

Questions?

Contact

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