



ITA Legal RESEARCH 2019 RECAP AND REVIEW

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Today's Agenda

- ▶ **REVIEW**
- ▶ **BEST PRACTICES**
- ▶ **BE SURE TO TAKE ANY AND ALL LEXIS
ADVANCE AND WESTLAW CLASSES
OFFERED BY THE REPS**

Our Lexie



Our Facts

- ▶ A senior partner in your firm has come to you with a sad personal problem. His adult daughter, Amy, was living with her fiancée, Brendan, in an apartment located in the Fells Point neighborhood in Baltimore. Six months before their wedding they broke up and Amy moved out, leaving her beloved 5 year old labradoodle, Lexie, in the apartment and in the care of Brendan. She left Lexie behind because she vacated the apartment quickly and she could not take Lexie, Lexie's bed, and her food along with her own clothing with her. A month later, she contacted Brendan, to return Lexie to her, but he refused, saying that he now owned Lexie. She had purchased Lexie from a breeder after she graduated college but before she had met Brendan.

Our Tasks

- ▶ 1. What is the cause of action that may or may not return Lexie to Amy?
- ▶ 2. What are the elements of a cause of action of this type?
- ▶ 3. What is the likelihood of its success and why or why not?
- ▶ 4. What court has jurisdiction over this type of action? Be sure to cite the appropriate statute or rule.
- ▶ 5. Provide the correct Bluebook citation for 2 cases that spell out the elements of the type of case we are discussing here and provide a brief, one paragraph analysis of how the elements were applied to the facts in the case.

Where to start?

- ▶ Unless you are familiar with an area of law, it is **ALWAYS** best to start with a secondary source that is jurisdiction specific.
- ▶ A good secondary source will explain the law and provide citations to applicable primary materials (cases, statutes and regulations, if applicable).
- ▶ Be sure to **carefully read** and understand the secondary source **AND** the primary materials cited.

Westlaw Edge

- ▶ Student access began January 1
- ▶ Very similar to the old Westlaw, with an enhanced search algorithm.
- ▶ Their citator (KeyCite) now provides a warning when the law in your case has relied on an earlier overruled or “otherwise invalid” prior decision.
- ▶ Provides information on how a statute or federal regulation has been modified over time and has the ability to compare any two versions of the statute or regulation.
- ▶ Other than the color of the screen, I doubt you will find much on Edge to be different.

MD secondary sources On WE (89):

- ▶ We will focus on the Maryland Law Encyclopedia (MLE) and search in the Table of Contents for:

(owner or possess!) and recover and property and wrong! and (take! or detain!)

Replevin – Black's Law Dictionary

- ▶ replevin (ri-plev-in) n. [prob. fr. OF plevir la fey “to pledge one's word”] (17c) 1. An action for the repossession of personal property wrongfully taken or detained by the defendant, whereby the plaintiff gives security for and holds the property until the court decides who owns it. — Also termed claim and delivery. 2. A writ obtained from a court authorizing the retaking of personal property wrongfully taken or detained. — Also termed (in sense 2) writ of replevin. Cf. DETINUE; TROVER.
- ▶ You are looking for the return of the goods or property, not money damages.

American Law Reports (ALR) -

Document: Action in Replevin for Recovery of Dog or Cat, 85 A.L.R.6th 429 | [Actions](#)

Go to Page Page # All terms 752 Search Document

Action in **Replevin** for Recovery of **Dog** or **Cat**, 85 A.L.R.6th 429

Copy Citation

Reporter

85 A.L.R.6th 429 *

The ALR databases are made current by the weekly addition of relevant new cases as available from the publisher.

Document Type: Annotation

Author: [Dale Joseph Gilsinger](#) ▼, J.D.

[JURISDICTIONAL TABLE OF STATUTES AND CASES](#) ↓

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MLE Summary of Replevin

← Summary ↻

MD-ENC REPLEVIN SUM · Joseph T. Latronica, J.D. · Maryland Law Encyclopedia (Approx. 2 pages)

↓ Related documents

Document

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- ← Replevin
 - Summary
 - I. Replevin, in General >
 - II. Proceedings and Relief >
 - III. Liabilities on Replevin Bonds >
 - Correlation Table >

Summary

Scope:

This topic discusses the remedy of replevin, whereby the **owner** or person claiming the **possession** of personal **property** may **recover** such **property** where it has been **wrongfully taken** or unlawfully **detained**. Also discussed are the nature of and the right to the remedy, the procedure to be followed, the relief which may be obtained, and liability on the bonds given in the course of proceedings based on actions in replevin or for a writ of replevin.

Treated Elsewhere:

Actions in detinue, generally, see [Maryland Law Encyclopedia, Actions § 29](#)

Actions in replevin to **recover** fixtures, see [Maryland Law Encyclopedia, Fixtures § 4](#)

Actions in trespass, generally, see [Maryland Law Encyclopedia, Trespass §§ 1 et seq.](#)

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Maryland Law Encyclopedia

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Browse Table of Contents below or search above. ⓘ ✕

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- Replevin [Chapter View]

Summary

- I. Replevin, in General [Chapter View]

- A. Nature and Scope of Action of Replevin [Chapter View]

Research References

§ 1. Overview of replevin

§ 2. Jurisdiction; applicable law

§ 3. Other actions distinguished

§ 4. Conditions precedent; demand

+ B. Property Subject to Replevin

- II. Proceedings and Relief [Chapter View]

+ A. Commencement and Pleadings

+ B. Proceedings Pursuant to Show Cause Hearing

Look to footnotes to find cited cases, Key Numbers and other secondary sources

In a replevin action, a party seeks basically to recover specific goods and chattels to which he or she asserts an entitlement to possession.¹ Generally, the recovery of damages is merely an incident to the action to recover the property.² Replevin is an action ex delicto founded on a tortious taking or detention of chattels, for which damages may be allowed.³ Replevin is an appropriate remedy in all cases where the object of the suit is to recover possession of specific goods and chattels, to the possession of which the plaintiff claims to be entitled at the time of instituting the suit.⁴ Thus, the action of replevin which may be maintained not only for the unlawful taking but also for the unlawful detention of property⁵ is generally a possessory action⁶ resorted to for the purpose of trying the right of possession at the time the writ issued.⁷

While the right of title may be put in issue and litigated in an action on replevin,⁸ the action is not necessarily to determine title to the property⁹ rather one being generally related to the right of possession.¹⁰

Footnote 4

4

Wallander v. Barnes, 341 Md. 553, 671 A.2d 962 (1996); Furda v. State, 193 Md. App. 371, 997 A.2d 856 (2010).

Wallander v. Barnes

Related documents

Court of Appeals of Maryland. • February 14, 1996 • 341 Md. 553 • 671 A.2d 962 (Approx. 16 pages)

Document

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Citing References (65)

Table of Authorities

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Synopsis

West Headnotes

Attorneys and Law Firms

+ Opinion

All Citations

Footnotes

Distinguished by 111 Scherr Lane, LLC v. Triangle General Contracting, Inc., Md.App., June 29, 2017

Brief It

Original Image of 671 A.2d 962 (PDF)

341 Md. 553
Court of Appeals of Maryland.

Thomas R. WALLANDER
v.
Harold BARNES.

We will return to likelihood of success of this action shortly, but what court has jurisdiction in replevin actions?

- ▶ Governed by a statute....should be obvious, but MLE annotation on Replevin at Section 2 covers Jurisdiction:

The district court has exclusive original civil jurisdiction in an action of replevin, regardless of the value of the thing in controversy. ¹ The allocation exclusively to the district court of preseizure hearings in replevin cases is designed to expedite the issuance of the writ in replevin. ²

Caution:

While the district court has exclusive original civil jurisdiction in an action of replevin regardless of the value of the property in controversy, damages measured by the full value of the goods sought are not recoverable in replevin. ³

Actions in replevin are generally subject to the law of the state in which the transactions regarding the subject property took place, thus the law of that state where the transactions took place is the law which controls the substantive rights relative to the subject property even if the action is brought in the State of Maryland. ⁴

¹ § 4-401(2) of the Courts and Judicial Proceedings Article.

MD CTS. & JUD. PROC. § 4-401(2) (West 2018).

§ 4-401. Exclusive original jurisdiction of court

Currentness

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(1) An action in contract or tort, if the debt or damages claimed do not exceed \$30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(2) An action of replevin, regardless of the value of the thing in controversy;

Questions

- ▶ What cases did you choose that best explain the elements of replevin. Why?
- ▶ How likely is it that Amy will prevail and get Lexie back? Why?
- ▶ What arguments/factors go against her getting Lexie back?
- ▶ What arguments/factors favor her getting Lexie back.

Citation Workshops

- ▶ Jan. 30, Feb. 1 and Feb. 2
- ▶ Feb. 6, Feb. 8 and Feb. 9
- ▶ All workshops will take place in room 912 (in the Library) and you can sign up for one session at either noon or 12:30 on any of these dates. Anyone can attend, but those who scored less than 11 on the citation quiz are required to attend.

Need BB Help???

- ▶ Georgetown's Online Guide
- ▶ Cornell's Basic Legal Citation Guide
- ▶ Maryland Citations (UB Legal Writing Center "Due Diligence" guides): law.ubalt.edu/legalwriting