

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT  
IN AND FOR VOLUSIA COUNTY, FLORIDA

LINDSEY ISAACS,  
Plaintiff,

CASE NO.: 2026 10508 CIDL  
DIVISION: 02

and

FLORIDA HIGHWAY PATROL,  
a division of the Florida State Department of  
Highway Safety and Motor Vehicles,

Defendant.

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**RESPONSE TO DEFENDANT’S MOTION TO DISMISS**

**COMES NOW**, Plaintiff, LINDSEY ISAACS, by and through the undersigned counsel, files this Response to Defendant, FLORIDA HIGHWAY PATROL’s Motion to Dismiss filed in the above-styled case and in support thereof would state as follows:

**FACTUAL AND PROCEDURAL BACKGROUND**

1. This is an action for replevin and other relief between Plaintiff, LINDSEY ISAACS, and Defendant, FLORIDA HIGHWAY PATROL (hereinafter referred to as “FHP”).
2. On October 4, 2025, an auto accident occurred on Interstate 4 in Volusia County, Florida which resulted in multiple fatalities.
3. On October 5, 2025, FHP located and seized the Plaintiff’s vehicle in connection with their investigation of the accident.
4. Plaintiff’s vehicle has now been held at a DeLand evidence facility by FHP for over six (6) months without a showing of good cause.
5. As such, following the filing of the Petition in this action, the Court entered an Order to Show Cause [DIN #7] and a hearing was set for April 30, 2026.

6. On April 17, 2026, the State filed criminal charges against Plaintiff (Case No. 2026 102441 CFDL).
7. Defendant FHP now moves to dismiss the Complaint for Replevin on grounds of statutory insufficiency and improper jurisdiction.
8. *A Motion to Quash Arrest Warrant, Suppress Evidence, and Request for Frank's Hearing* is currently pending in the now related criminal case.

### **ARGUMENT**

**A. The Complaint is Legally Sufficient to Establish a Cause of Action for Replevin and a Lawful Initial Seizure of Property Does Not Automatically Justify Indefinite Retention of the Property.**

Defendant's Motion to Dismiss first makes the argument that Plaintiff's Complaint "fail[s] to alleged, as required under Section 78.055(3), Florida Statutes, that the Defendant has wrongfully detained the subject property." Fla. Stat. § 78.055(3) states that a complaint reciting and showing "a statement that the property **IS** wrongfully detained by the defendant, the means by which the defendant came into possession thereof, and the cause of such detention according to the best knowledge, information, and belief of the plaintiff," among other statements and descriptions. The Complaint filed in this action clearly states that Plaintiff's vehicle was taken prior to the filing of any criminal charges, that the vehicle was not taken pursuant to any law related to a tax, assessment, or fine against the Plaintiff, and that the vehicle was not taken under an execution or attachment against the property of the Plaintiff (see paragraphs 17, 18, and 19 of the Complaint at DIN #2).

While the Complaint may not have used the exact statutory language in an effort to be more specific regarding the details of the "wrongful detention," the statements made in the Complaint clearly and unequivocally challenge the continued detention of the vehicle by seeking its return

after nearly four (4) months at the time of filing, thus, satisfying the statutory requirement for a statement that the Defendant is wrongfully detaining the property. Further, the language of the statute very clearly provides that the statement allege that the property “**IS**” wrongfully detained, not “was” as Defendant’s Motion contends. This is an important distinction because, as previously stated, at the time of filing, no criminal action had been brought against the Plaintiff in this action in connection with the crash that allegedly involved the vehicle subject to this action. As such, the detention of the property at the time of filing may have, in fact, been wrongful. However, the now allegedly lawful seizure does not automatically justify indefinite retention of the property, particularly if the evidentiary value has already been preserved through the numerous forensic examinations the State claims to have already completed pursuant to their October 10, 2025 search warrant. Thus, at the time of filing, the Complaint was facially sufficient to support a cause of action for replevin under Fla. Stat. §78.01.

**B. Jurisdiction is Determined at the Time of Filing and a Later-Filed Criminal Case Should Not Automatically Terminate Properly Obtained Jurisdiction.**

Defendant’s second argument in support of dismissing the Complaint is that jurisdiction over the property subject to this action is now exclusively with the criminal court following the filing of criminal charges. Defendant’s Motion is only partially correct and neglects to consider the actual timeline of events or the totality of the circumstances. While the *Garmire v. Red Lake* case does provide that it is improper to “cross over and intrude in criminal matters pending within the jurisdiction of the criminal courts,” it says nothing about what happens when a criminal matter intrudes on a pre-existing civil action. 265 So.2d 2 (Fla. 1972). The more relevant case is surely the *Eight Hundred, Inc. v. State* case in which the Court of Appeals for the Fifth District provided that, “[o]nce a criminal prosecution is instituted, the court in which that prosecution is pending acquires jurisdiction over that property to hear and determine all questions concerning its

ownership if the property seized has an evidentiary purpose.” 781 So.2d 1187 (Fla. 5th DCA 2001). However, there is also nothing in this case or any of the other cases cited by Defendant’s Motion that definitively states that a civil court in which jurisdiction was properly established prior to the initiation of a criminal action has its jurisdiction completely and conclusively terminated.

Replevin is a possessory action and therefore requires *in rem* jurisdiction over the subject matter. *Prestige Rent-A-Car, Inc. v. Advantage Car Rental & Sales, Inc. (ACRS)*, 656 So. 2d 541 (Fla. Dist. Ct. App. 1995) (quotations omitted). *In rem* jurisdiction is established when specific procedural requirements are met regarding property within the court's territorial limits. Jurisdiction is acquired by filing a complaint with exhibits referencing the property that may be subjected to the court's processes. *Flagship State Bank of Jacksonville v. Carantzas*, 352 So.2d 1259 (Fla. 1st DCA 1977). Stated plainly, jurisdiction in replevin actions is established at the time of filing. Here, Plaintiff filed a Verified Complaint which contained and fulfilled all requirements under the relevant Florida Statutes. The Complaint also established that the property is physically located within the jurisdiction of the Civil Division of the Circuit Court for Seventh Judicial Circuit in Volusia County. As such, jurisdiction was properly established at the time of filing, *prior to* the initiation of the related criminal proceedings. So, although the criminal case may have assumed primary jurisdiction in regard to the vehicle for the time being, the Civil Division’s jurisdiction remains proper and secondary to criminal court’s current exercise of jurisdiction, which could conclude at any time. Thus, it would be wholly inappropriate to dismiss this action outright, rather than stay proceedings until this Court’s primary jurisdiction over the property is restored.

**C. There is a Currently Pending Motion to Quash the Arrest Warrant in the Related Criminal Case That, Should it Be Granted, Would Restore Jurisdiction to The Civil Court.**

Defendant's argument as to jurisdiction now being exclusively with the criminal court also neglects to mention the current posture of the criminal case and how that may affect jurisdiction in the short term. As noted herein, there is currently a *Motion to Quash Arrest Warrant, Suppress Evidence, and Request for Frank's Hearing* pending in the criminal case. This Motion has a strong likelihood of disposing of the criminal case altogether should it be granted. In that probable scenario, primary jurisdiction could immediately return to this Court and the proceedings could continue as if no interruption had occurred.

Although some of the case law put forth by Defendant's Motion appears to suggest that the criminal court would retain jurisdiction to hear claims as to the property, the currently available authorities seem to cover only those cases in which motions for the return of property or complaints seeking replevin were filed *after* criminal proceedings had concluded. These authorities are easily distinguishable from the case at hand, as the Complaint for Replevin has already been filed and this case precedes the criminal case by several months. As such, in the interests of judicial efficiency and preventing prejudice to the Plaintiff, claims regarding the vehicle should remain before this Court if the criminal case is resolved or dismissed. Thus, outright dismissal is, again, inappropriate in light of this Court's ability to stay proceedings.

**WHEREFORE**, Plaintiff, LINDSEY ISAACS, respectfully requests that this Honorable Court:

1. DENY the Defendant's Motion to Dismiss;
2. Permit the Show Cause Hearing scheduled for April 30, 2026 to go forward as ordered to address all outstanding issues at that time;
3. And grant all such further relief as the Court deems just and proper.

[SIGNATURE AND CERTIFICATION PAGE TO FOLLOW]

**DWYER & KNIGHT**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing has been electronically filed this 28<sup>th</sup> day of April and a copy delivered to Nathan Robert Ross, Esq., counsel for Defendant, Florida Highway Patrol, at [nathanross@flhsmv.gov](mailto:nathanross@flhsmv.gov) and [wendyhigon@flhsmv.gov](mailto:wendyhigon@flhsmv.gov).

**DWYER & KNIGHT**

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