Article 9 allows creditors to use self-help to retake possession of collateral, and most repossessions are conducted in this way. When state law prohibits self-help repossession, or the creditor finds it inconvenient to use self-help, the creditor will probably use replevin instead, which is discussed in Chapter 5 [1], infra.

? Does state law prohibit or restrict self-help repossession for this collateral or in these circumstances? See §§ 6.3.2 to 6.3.4 [2], infra.

? Is repossession prohibited or restricted because the debtor is in the military or is a military dependent? See § 6.3.5.1 [3], infra.

? Were police officers or public officials involved in the repossession? If so, the debtor may have claims under the Due Process Clause or the Fourth Amendment. See § 6.3.6 [4], infra.

? Did the creditor breach the peace by:
  ? Using force or threats?
  ? Proceeding with the repossession over the debtor’s objections?
  ? Involving a police officer?
  ? Trespassing or breaking and entering?
  ? Using trickery or deception? See § 6.4 [5], infra.

? Does the case involve the creditor disabling the vehicle with a starter interruption device or other form of “electronic repossession”? See § 6.6 [6], infra.

? Did the creditor fail to return unsecured personal property that was taken along with the repossessed collateral? See Ch. 7 [7], infra.

Source: National Consumer Law Center, Repossessions [9th Ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/repo/010406

Links
[1] https://library.nclc.org/nclc/link/Repo.05
[2] https://library.nclc.org/nclc/link/Repo.06.03.02
[3] https://library.nclc.org/nclc/link/Repo.06.03.05.01
[4] https://library.nclc.org/nclc/link/Repo.06.03.06
[5] https://library.nclc.org/nclc/link/Repo.06.04
[6] https://library.nclc.org/nclc/link/Repo.06.06