

Unlawful Detainer

(not Eviction)

Use This Packet if:

1. You are trying to remove someone from their home, **and**
2. You have a legal right to reside in your home (you are the owner or legal tenant), **and**
3. The person you are trying to remove does not have a legal right to reside in your home (they are not an owner or a legal tenant), **and**
4. There is no agreement for rent (verbal or written) between you and the person you are trying to remove.

Unlawful Detainer is a county court lawsuit, filed pursuant to Florida Statute Chapter 82, to request that another person be ordered to leave your property. It is similar to an eviction proceeding except that in an Unlawful Detainer case, there is **no landlord/tenant relationship** between parties, i.e., there is **no agreement to pay rent**, either verbal or in writing. If there is an agreement to pay rent, verbal or in writing, you should consider an eviction case. Consult with an attorney if you are not sure.

Forms in This Packet	When to Use
Affidavit of Indigency	If you cannot afford fees.
Unlawful Detainer Complaint	Required to start the case.
Unlawful Detainer Summons	Required to start the case.
Certificate of Mailing	If Sheriff does not personally serve Defendant(s)
Request for Hearing	Use if an answer is filed.
Motion for Default & Default	Use if an answer is NOT filed.
Judgement for Possession	For the Judge to sign if you win the case.
Writ of Possession	For the Clerk of Court to sign after the Judge signs the Judgement for Possession. The Sheriff's office will use this to remove the Defendant.

Step by Step Instructions

STEP 1 - Write a letter asking the person(s) you are trying to remove to leave the home and give it to the person(s)

There is an attached letter you can use. You will be the **Plaintiff** in this case and the person or persons you want removed from your home is/are the **Defendant(s)**. It is up to you to decide how many days **notice** you want to give the persons you are trying to remove to leave the home.

Three days is common. See the example letter for more details. Hand deliver the letter to the defendant(s) after making a copy for your records. If you are unable to hand deliver the letter, post the letter or leave the letter somewhere that the defendant(s) will find it (some common examples include: their door, bed, or car window shield).

STEP 2 - Complete the forms to start the case

Complete the "Unlawful Detainer Complaint" and the "Unlawful Detainer Summons" forms, and, if you cannot afford the court fees, the "Affidavit for Determination of Civil Indigent Status" (Indigency Affidavit). Again, on the paperwork you are the Plaintiff and the person or persons you want removed from your property is the Defendant. You will be given a **Case Number** when you file the case with the Clerk of Court's office. All completed forms are filed with the Clerk's office, County Civil Division.

STEP 3 - Complaint

Sign the "Unlawful Detainer Complaint".

STEP 4 - Make copies

Make the necessary number of copies of the signed Complaint and Summons (1 copy for you and 2 copies to be delivered to each of the Defendants).

STEP 5 - Mailing

Quite often, the Sheriff is unable to personally serve the Defendant and is allowed to post the Summons and Complaint on the property. If you expect the sheriff will not be able to serve the Defendant in person, provide the Clerk of Court with two additional copies each of the Summons and the Complaint per Defendant, and two pre-stamped envelopes per Defendant addressed to the Defendant's residence and tie Defendants last known business address, if known.

STEP 6- Filing your case

Take the original Complaint and Summons to the Clerk of Court's office. The Clerk will stamp the Summons (one needed for each Defendant) and give you the summons to take to the Sheriff's office.

STEP 7 - Notifying the other party (Defendant)

The Summons must be served, either personally or by posting, by the Sheriff or a Certified Process Server. Take the Summons and copy of the Complaint to the Sheriff's office and pay the fee to have the Defendant served. If you have been granted an Indigency Waiver, the Sheriff will serve the Summons and Complaint at no charge. A Certified Process Server will **not** serve at no charge.

STEP 8 - After the Defendant is served

After the Summons & Complaint is served to the Defendant, the Defendant has **five (5) working days** to file a response regarding the case. (**Do not count the day of service, Saturdays, Sundays, or observed legal holidays**). After 5 working days have passed, you will do one of the following:

- A. **If the Defendant filed an answer**, fill out the document entitled “**Request for Hearing**” with the Clerk of the Court. Make sure you fill out the Certificate of Service on this document and indicate that you have sent a copy to the defendants by listing their names and addresses below the certificate of service. After you have filed this document with the Clerk of Court, the Court will send you a hearing date in the mail. **Go to Step 9.**
- B. **If the Defendant did not file an answer**, complete the following forms and take them to the Clerk of Court’s office.
 - i. Motion for Default & Default
 - ii. Judgement for Possession (complete the heading only- names and case number)
 - iii. Writ of Possession (complete the heading only- names and case number)

The Clerk will file your documents and take the Judgement for Possession to the Judge to be signed. Once the Judgement for Possession is signed by the Judge, the Clerk can issue the Writ of Possession. The Sheriff’s office charges a fee to execute the Writ of Possession and remove the Defendant. The fee is not waived by the Indigency Affidavit.

STEP 9 - Attending a hearing? What to expect

If the Defendant filed an answer, both parties will be required to attend a hearing. You will not be in front of a jury, just the judge. Do not interrupt the judge when he or she speaks. When speaking to the judge, address him or her as "Your Honor" or "Judge."

Each court has at least one bailiff who is a deputy sheriff and is there to maintain order. When you arrive for your hearing, let the bailiff know that you are present and ready. He or she will announce your case when it is time for your hearing, and will tell you where to sit and where to place your belongings as you enter the hearing room. A bailiff will usually remain inside the room during your hearing. If witnesses are called, the bailiff will step out to bring the witness into the hearing room.

At your hearing, be prepared to discuss any issues covered the Complaint and be able to provide proof of any disputed facts by presenting evidence. Evidence is proof presented at hearing in the form of witnesses (people), exhibits (documents), and objects (things). Not all evidence can be considered by the judge, however. **Evidence must conform to the Rules of Evidence in Chapter 90 of the Florida Statutes to be admissible in court.** Remember, the duty of proving the facts that you want to present to the court is on YOU. You should provide the judge with admissible evidence to support the claims in your Complaint and your statements in court. Telling your story may not be enough to win your case.

Once both sides have presented their evidence, the judge will make a decision. If the Judge signs a Judgement for Possession, the Clerk can issue the Writ of Possession. The Sheriff's office charges a fee to execute the Writ of Possession and remove the Defendant. The fee is not waived by the Indigency Affidavit.

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

AFFIDAVIT OF NON-MILITARY SERVICE

Before me, the undersigned authority, personally appeared, who duly sworn, deposes and says:

The Defendant(s) is/are not now nor has/have been in the military service of the United States since the institution of this action.

Plaintiff

STATE OF FLORIDA

COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or clerk.]

___ Personally known

___ Produced identification

Type of identification produced _____

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

CERTIFICATE OF MAILING

I, _____, do hereby certify that pursuant to Florida Statute 82.05, the Plaintiff has provided the Clerk of the Court with copies of the Complaint and pre-stamped envelopes addresses to the defendant(s) for first-class mailing.

I further certify that the filing of this Certificate of Mailing has been properly docketed and on the date below copies of the summons and complaint were mailed to:

Service shall be effective on the date of posting or mailing, whichever occurs later; and at least 5 days from the date of service must have elapsed before a judgment for final removal of the defendants may be entered.

DATED: _____

CLERK OF THE CIRCUIT COURT

_____ County, Florida

BY: _____

Deputy Clerk

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

_____,
Plaintiff(s),

vs.

Case Number: _____

_____,
Defendant(s).

COMPLAINT FOR UNLAWFUL DETAINER

Plaintiff(s), _____, sues the
Defendant(s), _____, and alleges as
follows:

1. This is a cause of action for unlawful detainer pursuant to Chapter 82, Florida Statutes.
2. On or about (*date*) _____, Defendant entered or took possession of the dwelling located at (*address*)

located in (*name of county address is located in*) _____
County, Florida with the permission of the Plaintiff, but not pursuant to any lease agreement.

3. On or about (*date*) _____, Plaintiff revoked his/her/their consent for Defendant to be in possession of the dwelling and, on that date, so informed Defendant, and demanded that Defendant vacate the premises.

4. However, Defendant refused to vacate the premises and continues in possession of the dwelling against the consent of Plaintiff, contrary to § 82.04, Florida Statutes.

5. In accordance with § 82.04(1), Florida Statutes, Plaintiff is entitled by this lawsuit to have Defendant removed from possession of the premises; and Plaintiff is entitled to the summary procedure set forth in § 51.011, Florida Statutes.

WHEREFORE, Plaintiff respectfully requests that the Court will find that Defendant wrongfully holds possession of the premises, grant final judgment in favor of Plaintiff and against Defendant, issue a writ of possession in favor of Plaintiff and against Defendant in accordance with §82.091, Florida Statutes, award to Plaintiff the costs of this action, and grant to Plaintiff such other relief as justified by the circumstances in this case.

_____ (Your Signature)
Plaintiff

_____ (Print Your Name)

(Address)

_____ (City, State, Zip)

_____ (telephone number)

IN THE CIRCUIT/COUNTY COURT OF THE ----- JUDICIAL CIRCUIT
IN AND FOR ----- COUNTY, FLORIDA

CASE NO. _____

Plaintiff/Petitioner or In the Interest Of
vs.

Defendant/Respondent

APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS

Notice to Applicant: If you qualify for civil indigence you must enroll in the clerk's office payment plan and pay a one-time administrative fee of \$25.00. This fee shall not be charged for Dependency or Chapter 39 Termination of Parental Rights actions.

1. I have _____ dependents. (Include only those persons you list on your U.S. Income tax return.)
Are you Married?...Yes....No Does your Spouse Work?...Yes....No Annual Spouse Income? \$ _____

2. I have a net income of \$ _____ paid () weekly () every two weeks () semi-monthly () monthly () yearly () other _____

(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered payments such as child support.)

3. I have other income paid () weekly () every two weeks () semi-monthly () monthly () yearly () other _____.
(Circle "Yes" and fill in the amount if you have this kind of income, otherwise circle "No")

Second Job	Yes \$ _____	No _____	Veterans' benefits.....	Yes \$ _____	No _____
Social Security benefits			Workers compensation.....	Yes \$ _____	No _____
For you.....	Yes \$ _____	No _____	Income from absent family members	Yes \$ _____	No _____
For child(ren)	Yes \$ _____	No _____	Stocks/bonds.....	Yes \$ _____	No _____
Unemployment compensation	Yes \$ _____	No _____	Rental income.....	Yes \$ _____	No _____
Union payments	Yes \$ _____	No _____	Dividends or interest.....	Yes \$ _____	No _____
Retirement/pensions	Yes \$ _____	No _____	Other kinds of income not on the list.....	Yes \$ _____	No _____
Trusts	Yes \$ _____	No _____	Gifts	Yes \$ _____	No _____

I understand that I will be required to make payments for fees and costs to the clerk in accordance with §57.082(5), Florida Statutes, as provided by law, although I may agree to pay more if I choose to do so.

4. I have other assets: (Circle "yes" and fill in the value of the property, otherwise circle "No")

Cash.....	Yes \$ _____	No _____	Savings account.....	Yes \$ _____	No _____
Bank account(s).....	Yes \$ _____	No _____	Stocks/bonds.....	Yes \$ _____	No _____
Certificates of deposit or			Homestead Real Property*.....	Yes \$ _____	No _____
money market accounts.....	Yes \$ _____	No _____	Motor Vehicle*.....	Yes \$ _____	No _____
Boats*	Yes \$ _____	No _____	Non-homestead real property/real estate*	Yes \$ _____	No _____

*show loans on these assets in paragraph 5

Check one: I () DO () DO NOT expect to receive more assets in the near future. The asset is _____.

5. I have total liabilities and debts of \$ _____ as follows: Motor Vehicle \$ _____, Home \$ _____, Other Real Property \$ _____, Child Support paid direct \$ _____, Credit Cards \$ _____, Medical Bills \$ _____, Cost of medicines (monthly) \$ _____, Other \$ _____.

6. I have a private lawyer in this case..... Yes No

A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under s. 57.082, F.S. commits a misdemeanor of the first degree, punishable as provided in s.775.082, F.S. or s. 775.083, F.S. **I attest that the information I have provided on this application is true and accurate to the best of my knowledge.**

Signed this _____ day of _____, 20____.

Date of Birth Driver's License or ID Number

Signature of Applicant for Indigent Status
Print Full Legal Name _____
Phone Number: _____

Address, P O Address, Street, City, State, Zip Code

CLERK'S DETERMINATION

Based on the information in this Application, I have determined the applicant to be () Indigent () Not Indigent, according to s. 57.082, F.S.

Dated this _____ day of _____, 20 _____.

Clerk of the Circuit Court by _____

This form was completed with the assistance of: _____

Clerk/Deputy Clerk/Other authorized person.

**APPLICANTS FOUND NOT TO BE INDIGENT MAY SEEK REVIEW BY A JUDGE BY ASKING FOR A HEARING TIME.
THERE IS NO FEE FOR THIS REVIEW.**

Sign here if you want the judge to review the clerk's decision _____

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

JUDGMENT FOR POSSESSION

UNLAWFUL DETAINER

THIS CAUSE was considered by the Court upon the Plaintiff's **COMPLAINT FOR UNLAWFUL DETAINER** from the premises described in the Complaint, and it appears that Defendant(s) was/were duly served with Notice and process as required by law and:

Defendant(s) failed to file any pleading contesting the allegations of the Complaint and a default has been entered by the Clerk.

The Court has taken testimony or received Affidavits from the Plaintiff(s).

IT IS THEREFORE ordered by the Court that a Judgment be and is hereby entered against the Defendant(s) and that the Plaintiff(s) does/do have and recover of and from the Defendant(s),

possession of the premises situation in the County of _____, State of Florida described as:

and the Clerk of this Court shall issue a Writ of Possession under the Seal of this Court directed to the Sheriff of _____ County, Florida, describing the premises and commanding him/her to put the Plaintiff(s) in possession of the premises.

WRIT OF POSSESSION SHALL:

issue upon signing of this Judgment.

not issue for ten (10) days from the date of this Judgment.

Plaintiff is awarded Court costs in the amount of \$_____ for which let execution issue with interest at _____% per annum in accordance with section 55.03 Florida Statutes. The Court may reserve jurisdiction to enter a money judgment against the Defendant(s) in accordance with section 83.625, Florida Statutes, if applicable.

DONE AND ORDERED in _____, Florida this _____ day of _____, 20____.

COUNTY JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the foregoing was furnished by U.S. Mail to:

Judicial Assistant

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

MOTION FOR DEFAULT

Plaintiff moved for entry of a default by the clerk against the defendant(s)

for failure to serve any paper on the undersigned or file any paper as required by law.

Plaintiff

DEFAULT

A default is entered in this action against the defendant(s), named in the foregoing motion, for failure to serve or file any paper as required by law.

DATED: _____

CLERK OF THE CIRCUIT COURT

_____ County, Florida

BY: _____

Deputy Clerk

Hand
Delivered

Dear _____,

This is to inform you that, in accordance with § 82.04, Florida Statutes, I hereby revoke my consent for to live in my home at _____.

I am the sole owner of this home. I further hereby notify you that you are required to vacate this dwelling on or before midnight of _____.

I wish you no ill will; but if you fail to remove yourself and your belongings by that time, I will then be required to file suit against you for unlawful detainer in _____ County Court, Civil Division. Please govern yourself accordingly.

Sincerely,

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

REQUEST FOR HEARING

TO: HONORABLE (*insert name of Judge*) _____

I request a hearing before you on my Complaint for Unlawful Detainer filed (*insert date*)
_____.

I am requesting (*insert amount of time*) _____ for my hearing.

I plan to call (*insert number of witnesses*) _____ witnesses, including myself and the

I plan to present approximately (*insert number*) _____ pieces of evidence to the Court.

Dated: _____

Plaintiff Signature

Printed Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Designated E-mail Address(es):

CERTIFICATE OF SERVICE

I certify that a copy of this Request for Hearing was e-mailed mailed hand-delivered to the defendant(s) listed above on this _____ day of _____, 20_____.

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

UNLAWFUL DETAINER SUMMONS RESIDENTIAL

You are being sued by (*insert name of Plaintiff(s)*)

to require you to move out of the place where you are living for the reasons given in the attached
Complaint.

TO THE DEFENDANT(S) (*insert name of each defendant*):

YOU ARE REQUIRED to mail or deliver the original of your WRITTEN ANSWER
AND DEFENSES to the attached COMPLAINT to the (*insert name of county*)

_____ CLERK OF THE COURT, (*insert county clerk of court's address*)

PERSONAL SERVICE: IF THIS SUMMONS and a copy of the COMPLAINT have been
personally served upon you or upon anyone residing at your residence who is 15 years of age or

older, your WRITTEN ANSWER AND DEFENSES MUST be received by the CLERK within 5 WORKING DAYS of service as the claim for possession of the premises.

POSTED-MAIL SERVICE: IF THE SUMMONS and a copy of the COMPLAINT have been attached to a conspicuous place on your residence, your WRITTEN ANSWER AND DEFENSES MUST be received by the CLERK within 5 WORKING DAYS of the date that it was attached to some conspicuous place on the property described in the COMPLAINT. The date of positing is the date noted thereon by the Deputy Sheriff or Civil Process Server.

A DEFAULT may be entered against you and a JUDGMENT to remove you from the property and/or reasonable costs and attorney fees may be entered without further notice to you, if you do not follow these instructions.

REQUESTS FOR ACCOMODATIONS FOR PERSONS WITH DISABILITIES

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator of the 12th Judicial Circuit Courts, at 941-861-7800 (in Sarasota) or at 941-749-3635 (in Manatee County) at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired call 711.

TO THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE:

You are commanded to serve this summons and a copy of the complaint in this lawsuit on the above-named person.

DATED: _____

CLERK OF THE CIRCUIT COURT

BY: _____

Deputy Clerk

IN THE COUNTY COURT, TWELFTH JUDICIAL CIRCUIT, IN AND FOR
_____ COUNTY, FLORIDA, CIVIL DIVISION

Plaintiff(s)

vs.

Case Number: _____

Defendants(s)

WRIT OF POSSESSION

TO THE STATE OF FLORIDA

To the Sheriff of _____ County, Florida

YOU ARE COMMANDED to remove all persons from the following described property
in _____ County, Florida: (*Address of Property*)

and to put Plaintiff(s) of the above action in possession of it.

WITNESS my hand and seal of this Court on this ____ day of _____, 20____.

CLERK OF THE CIRCUIT COURT

_____ County, Florida

BY: _____

Deputy Clerk