

UNLAWFUL DETAINER (not Eviction)

USE THIS PACKET IF:

- 1) YOU ARE TRYING TO REMOVE SOMEONE FROM YOUR HOME, and
- 2) YOU HAVE A LEGAL RIGHT TO RESIDE IN YOUR HOME (YOU ARE THE OWNER OR ARE THE 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 IN WRITING) 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 the 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 filing an eviction case. Consult with an attorney if you are not sure.

<u>FORMS IN THIS PACKET</u>	<u>WHEN TO USE</u>
Unlawful Detainer Complaint	Required to start the case
Unlawful Detainer Summons (COCV1107)	Required to start the case
Non-Military Affidavit	Use only if the other party is NOT in the military and they do not file an answer
Motion for Default & Default (COCV1215)	Use if no answer is filed
Judgment for Possession	For the Judge to sign if you win the case
Writ of Possession (COCV1239)	For the Clerk to sign after the Judge signs the Judgment. The Sheriff's office will use this to remove the Defendant.

Information or forms provided by the Clerk of Circuit Court should be considered as basic information only and may not be applicable to every situation. The information is not intended to be used as legal advice. Specific guidance as to how to proceed with filing a lawsuit or answering a lawsuit and questions about your particular situation should be directed to a qualified attorney. If you do not know an attorney, you may call the Lawyer Referral Service at 221-7780. If you do not have the money to hire an attorney, you may apply to Bay Area Legal Services by calling 232-1343.

STEP BY STEP INSTRUCTIONS

STEP 1 - Complete the forms to start the case

Complete the “Unlawful Detainer Complaint” and the “Unlawful Detainer Summons” forms. You are the Plaintiff and the person you want removed from your property is the Defendant. You will be given a Case Number and Division when you file the case with the County Clerk’s office. All completed forms are filed with the Clerk’s office, County Civil Division, 1st Floor, Room 103, George E. Edgecomb Courthouse, 800 East Twiggs Street, Tampa, FL 33602.

STEP 2 - Notary

Sign the “Unlawful Detainer Complaint” in front of a notary. The clerk’s office will notarize documents for a fee.

STEP 3 - Make copies

Make at least 2 copies of the completed Complaint and Summons (1 copy for you and 1 copy to be delivered to the Defendant). Copies can be obtained for a fee in the Court Business Center, on the 6th floor of the George Edgecomb Courthouse.

STEP 4 - Filing your case

Take the original Complaint and Summons to the County Clerk’s office. The Clerk will charge a filing fee. The Clerk will issue the Summons and give it back to you.

STEP 5 - Notifying the other party (Defendant)

The Summons must be served by either the Sheriff or a Certified Process Server. Take the Summons and one copy of the complaint to the Sheriff’s office and pay the fee to have the Defendant served. Hillsborough County Sheriff’s Civil Process is located at 700 Twiggs Street on the 3rd floor (across the street from the main courthouse). A non-refundable fee is required (only cash, cashier’s checks or money orders -- no personal checks).

STEP 6 - After the Defendant is served

After the Summons 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, the paperwork to complete the case may be filed.

If the Defendant filed an answer, file a request for a hearing in the Clerk’s office. There is no form for this. You may use a plain piece of paper to write your request. Make sure you include the case number and the names of the parties. You will be notified by mail when the hearing is scheduled.

If the Defendant did not file an answer, and is not in the military, complete the following forms and take them to the County Clerk’s office. (If the Defendant did not file an answer and is in the military, STOP HERE and consult an attorney.)

- a. Motion for Default & Default
- b. Non-Military Affidavit (must be notarized)
- c. Judgment for Possession (complete the heading only - names and case number)
- d. Writ of Possession (complete the heading only - names and case number)

The Clerk will file your documents and take the Judgment for Possession to the Judge to be signed. Once the Judgment 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.

STEP 7 - Attending a hearing? What to expect

If the Defendant filed an answer and you have filed a request for a hearing, you will receive notice of your court date in the mail. The hearing will take place in a hearing room or a courtroom. You will not be in front of a jury, just the general magistrate or judge. Do not interrupt the magistrate or judge when he or she speaks. When speaking to the magistrate or 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 in the complaint and be able to provide proof of any disputed facts by presenting evidence. Evidence is proof presented at a 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 establishing 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 Judgment 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.

**IN THE COUNTY COURT FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION**

_____,
PLAINTIFF(S),

CASE NO.: _____

v.

DIVISION: _____

_____,
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 took possession of the dwelling located at (address / description of mobile home) _____, Hillsborough County, Florida with the permission of Plaintiff.

3. On or about (date) _____ Plaintiff revoked his/her 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)

(Print Your Address)

(Telephone number)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by _____, who is personally known to me or who has produced _____ as identification and who did [] did not [] take an oath.

PAT FRANK
As Clerk of the Court

As Deputy Clerk

Notary Public

Typed or Printed Name

PAT FRANK, Clerk of the Court
Mailing Address:
County Civil Division
P.O. Box 1110
Tampa Florida 33601

County Civil Office located at:
1st Floor
George E. Edgecomb Courthouse
800 E. Twiggs Street
Tampa, FL 33602

IN THE COUNTY COURT OF IN AND FOR HILLSBOROUGH COUNTY FLORIDA
CIVIL DIVISION

CASE NO. _____

DIVISION _____

Plaintiff(s)

VS.

Defendant(s)

**UNLAWFUL DETAINER SUMMONS
(CLAIM FOR POSSESSION OF PREMISES)**

TO ALL AND SINGULAR THE SHERIFFS OF THE STATE OF FLORIDA:

YOU ARE COMMANDED to serve this **SUMMONS** and a copy of the **COMPLAINT** in the above styled cause upon the **DEFENDANTS(S):** *whose name(s) and address is:*

TO THE DEFENDANT(S):

YOU ARE REQUIRED to mail or deliver the original of your **WRITTEN ANSWER AND DEFENSES** to the attached **COMPLAINT** to the **CLERK OF THE CIRCUIT COURT**, 800 Twiggs St., 1st Floor, P. O. Box 1110, Tampa, Florida 33601, or Plant City Branch Office, 301 N. Michigan Avenue, Room 1071, Plant City, Florida 33566, or any of the satellite offices located in Hillsborough County, **AND** a copy to Plaintiff or Plaintiff's attorney whose name and address is:

REQUESTS FOR ACCOMMODATIONS BY 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, Hillsborough County Courthouse, 800 E. Twiggs St., Room 604, Tampa, Florida 33602, (813) 272-7040, 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.

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 to the claim for possession of the premises.

POSTED-MAIL SERVICE: IF THIS 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 posting is the date noted thereon by the Process Server.

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

Witness my hand and the seal of this Court on the _____ day of _____, 20 _____.

PAT FRANK
As Clerk of the Court
Civil Division
800 Twiggs St., 1st Floor
Tampa FL 33602
(813)276-8100, Extension 4362

BY: _____
As Deputy Clerk

THE COUNTY COURT DOES NOT PROVIDE INTERPRETERS OR TRANSLATORS, YOU ARE RESPONSIBLE FOR PROVIDING YOUR OWN INTERPRETERS OR TRANSLATORS.

LA CORTE DEL CONDADO NO PROVEE INTERPRETES O TRADUCTORES, USTED ES RESPONSABLE DE PROVEER SU PROPIO INTERPRETE O TRADUCTOR.

**IN THE COUNTY COURT CIVIL DIVISION
HILLSBOROUGH COUNTY, FLORIDA**

PLAINTIFF(S)

vs

CASE NO: _____

DIVISION: _____

DEFENDANT(S)

**AFFIDAVIT OF NON-MILITARY SERVICE
(UNLAWFUL DETAINER)**

**STATE OF FLORIDA
COUNTY OF HILLSBOROUGH**

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 of
America since the institution of this action.

Plaintiff

**STATE OF FLORIDA
COUNTY OF HILLSBOROUGH**

The foregoing instrument was acknowledged before me this _____ day of _____,
_____, by _____ who is personally
known to me or who has produced _____ as identification and who
did [] did not [] take an oath.

PAT FRANK
As Clerk of the Court

As Deputy Clerk

Notary Public

Typed or Printed Name

IN THE COUNTY COURT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

_____ * CASE NO. _____

_____ * DIVISION _____

Plaintiff(s)

vs _____ *

_____ *

_____ *

Defendant(s)

MOTION FOR DEFAULT

Plaintiff moves for entry of a default by the clerk against defendant _____

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, named in the foregoing motion, for failure to serve or file any paper as required by law.

Dated on _____, _____.

PAT FRANK
As Clerk of the Court

By: _____
As Deputy Clerk

**IN THE COUNTY COURT CIVIL DIVISION
HILLSBOROUGH COUNTY, FLORIDA**

PLAINTIFF(S)

CASE NO: _____

v.

DIVISION: _____

DEFENDANT(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 situated in the County of Hillsborough, 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 Hillsborough County, Florida, describing the premises and commanding him 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 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 Tampa, Florida, this _____ day of _____, 20_____.

COUNTY JUDGE

IN THE COUNTY COURT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

CASE NO _____

DIVISION _____

Plaintiff(s)

vs.

Defendant(s)

WRIT OF POSSESSION

THE STATE OF FLORIDA:

To the Sheriff of Hillsborough County, Florida:

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

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

WITNESS my hand and seal of this Court on _____ .

PAT FRANK
As Clerk of the Court

By: _____

Deputy Clerk
(813) 276-8100, Ext. 4362

Plaintiff/Attorney

Address

Phone Number