

# **UNLAWFUL DETAINER** **PACKET COVER SHEET**

**This packet contains the information and forms for filing an Unlawful Detainer case. Unlawful Detainer Packets may be purchased at the Clerk's Office if needed for \$2.55.**

**Please note the CLERK OF COURT cannot give legal advice to you or interpret the law for you. If you need legal advice, please contact an Attorney or Community Legal Services of Mid-Florida (CLSMF) at 1-800-405-1417.**

# **UNLAWFUL DETAINER**

## **(not an 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 the legal tenant); and
- 4) There is no agreement for rent (verbal or in writing) between you and the person you are trying to remove.

Example: You let a friend or relative live in your home. You have now told them to leave, and they refused.

If your situation does not meet these criteria, unlawful detainer may not be the appropriate action, and you should review the information on eviction and ejectment. **CONTACT AN ATTORNEY** with any questions. This does not constitute legal advice.

Unlawful Detainer is a county court lawsuit, filed pursuant to Florida Statute Chapter 82.04, 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.

<b><u>FORMS IN THIS PACKET</u></b>	<b><u>WHEN TO USE</u></b>
Unlawful Detainer Complaint	Required to start the case.
Non-Military Affidavit	Use only if the party is NOT in the military and they do not file an answer.
Statement of Responsibility Form	
Permission to Use Email	Plaintiff to provide email address.
Motion for Default & Default	Use if no answer is filed.
Motion for Default Final Judgment	Use if no answer is filed
Consent to Case Closure After 90 days of Inactivity	Gives permission to the Clerk to close the case if there is no activity after 90 days.
Civil Cover Sheet	Required
Judgment for Possession	For the Judge to sign if you win the case.

**Retain copies of all forms filed for your own records.**

**FILING FEE: \$300.00** *(payable to Clerk of Court by cash, check, money order, debit/credit card)*

**Summons issuance fee:** **\$10 per defendant** *(summons is already prepared and given to Clerk)*

**Summons prep and issuance fee:** **\$17.00 per defendant** *(clerk prepares and issues summons)*

<b>Clerk's Certificate of Mailing:*</b>	<b>\$7.00</b> <i>(plus two preaddressed stamped envelopes)</i>
<b>Oath Fee:</b>	<b>\$3.50</b> <i>(per signature (if document(s) is not notarized)</i>
<b>Sheriff's Service Fee</b>	<b>\$40.00</b> <i>per defendant</i> <i>(Sheriff's fee is payable by cashier's check or money order/no personal checks).</i>

**\*IMPORTANT:** If a Defendant cannot be found, the Sheriff is allowed to serve the summons and complaint by posting them on the premises. The Clerk can also mail the documents by first-class mail and issue a Certificate of Mailing in the court file if the Plaintiff provides the Clerk with additional copies of the complaint, one envelope (with two stamps) addressed to the defendant(s), and \$7.00 to prepare the Certificate at the time of filing.

**It is important to remember that a delay can occur as a result of any errors on your paperwork, or if the proper fees are not submitted.**

**Directing the various types of causes of action to remove someone from your premises can be difficult and confusing. 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 1-800-342-8011. If you do not have the money to hire an attorney, you may apply to Community Legal Services by calling 1-800-405-1417.**

# FILING CHECKLIST

## **STEP 1 – File case with Clerk**

**To file an Unlawful Detainer case, you may file the following forms along with the filing fee and any service fees, if applicable, with the Clerk's office.**

- Complaint for Unlawful Detainer
  - (1) Original filed with the Clerk and (1) copy for each Defendant to be served
    - Sign the original in front of a notary OR the Clerk's office can put you under oath for a fee.
  - A copy of the deed, lease or other proof of Plaintiff's right of possession needs to be filed with this Complaint
- Statement of Responsibility
- Permission to Use Email form
- Consent to Case Closure after 90 Days
- Civil Cover Sheet

Take the original Complaint (with copies) and the Sheriff's fee to the County Clerk's office at the following address: Flagler County Clerk of Court, County Civil Division, Kim C. Hammond Justice Center, 1769 E. Moody Boulevard, Building No. 1, 2nd Floor, Bunnell, Florida 32110.

## **STEP 2 – Obtain Judgment**

**5 days after service on the Defendant(s):**

**and the Defendant(s) DID NOT respond, you may file the following forms:**

- Motion for Clerk's Default
- Motion for Default Final Judgment
- Non-Military Affidavit (must be notarized OR the Clerk can put you under oath for a fee)
- Judgment for Possession (complete the heading only, names and case number)
  - (1) Original and (1) copy for each Plaintiff AND Defendant and pre-addressed stamped envelope for each party as well
- If the Defendant did not file an answer and is in the military, STOP HERE and consult an attorney.

**OR**

**The Defendant(s) DID respond:**

- A hearing will be set by the Judge. You will be notified by mail or email (if your email address has been provided) when the hearing is scheduled.
- Judgment for Possession (complete the heading only, names and case number)

- Bring the Judgment for Possession and (1) copy for each Plaintiff AND Defendant to the hearing and (1) pre-addressed stamped envelope for each party as well.

**If the judge grants your complaint, the Judgment for Possession will be signed.**

### **STEP 3 – Obtain Writ of Possession**

**If the Defendant(s) refuses to leave the property after the Final Judgment has been signed, you may request a Writ of Possession and have it issued by the Clerk, allowing the Sheriff's department to remove them from the property.**

- The Clerk charges a fee of \$7 to prepare the Writ, payable by cash, check, money order or credit card (MasterCard, Visa, American Express or Discover). The cost of the Sheriff to serve the writ is \$90, payable by cashier's check or money order, no personal checks will be accepted by the Sheriff.

**THIS DOES NOT CONSTITUTE LEGAL ADVICE. Civil court information and forms provided by the Flagler County Clerk of Circuit Court should be considered informational 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 or answering a lawsuit and questions about your particular situation should be directed to a qualified attorney**

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

\_\_\_\_\_  
**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 an action to recover possession of real property unlawfully detained, *pursuant to Florida Statutes, Chapter 82*, located in Flagler County, Florida.
2. On or about (date) \_\_\_\_\_ Defendant took possession of the dwelling located at \_\_\_\_\_  
(describe property, i.e., property address or legal description) to which Plaintiff(s) claims possession as shown by the attached chain of title (copy of deed/lease).
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 FLAGLER**

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.

TOM BEXLEY  
 Clerk of the Circuit Court & Comptroller  
 1769 E. Moody Blvd., Bldg. #1  
 Bunnell, FL 32110

\_\_\_\_\_  
 As Deputy Clerk

\_\_\_\_\_  
 Notary Public

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

\_\_\_\_\_  
PLAINTIFF(S)

vs

CASE NO: \_\_\_\_\_  
DIVISION: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT(S)

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

**STATE OF FLORIDA  
COUNTY OF FLAGLER**

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 FLAGLER**

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.

TOM BEXLEY  
As Clerk of the Court

\_\_\_\_\_  
As Deputy Clerk

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

Case No. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff(s)

vs

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Defendant(s)

**STATEMENT OF RESPONSIBILITY**

Unlawful Detainer Action

**Before filing this case, I have considered the following matters and acknowledge that:**

1. This case is being filed in the County Court pursuant to Florida, Statute Chapter 82.04. That the conduct of this case will be in accordance with the rules of procedure and laws of Florida which apply to this case.
2. The naming of proper parties is an important element of the case and the responsibility for naming the proper plaintiff(s) and defendant(s) in this case is mine.
3. I am responsible for the furnishing of a correct address or location at which the defendant(s) can be served or given notice of this suit.
4. I assume responsibility as to my right to file this case for myself or for the named plaintiff(s) realizing that if the plaintiff is a corporation that such plaintiff may be required to be represented by an attorney.
5. I do not expect the Clerk who receives and files this claim to give me legal advice as to how to prosecute this case and acknowledge that the Clerk is not acting as my attorney or legal advisor.
6. I am solely responsible for the collection of any judgment entered in my favor.
7. I am responsible for identifying any confidential information in my pleadings under Florida Rules of Judicial Administration 2.240 and 2.425 and acknowledge it is my responsibility to file a NOTICE OF CONFIDENTIALITY form or MOTION if needed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

CASE NO: \_\_\_\_\_

DIVISION: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Petitioner/State

v.

\_\_\_\_\_  
Defendant/Respondent

**PERMISSION TO USE E-MAIL**

**Provide your email address below to receive a copy of your Orders, Judgments, Notices of hearings or other written communication from the Clerk of Courts and by electronic mail.**

By completing this form, I am authorizing the Clerk of the Circuit Court & Comptroller to send copies of orders/judgments, notices or any other written communications to me by email.

I will ensure the software filters, if any, have been removed from my computer so they do not interfere with my ability to receive any of the above documents.

I will file a written notice with the Clerk if my current email address changes.

\_\_\_\_\_  
(Circle One) Plaintiff/Petitioner/Defendant/Respondent (Please Print)

\_\_\_\_\_  
Your signature

\_\_\_\_\_  
your email address (please print clearly)

\_\_\_\_\_  
Date

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

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 \_\_\_\_\_.

TOM BEXLEY  
As Clerk of the Court

By: \_\_\_\_\_  
As Deputy Clerk

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

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s)

-VS-

\_\_\_\_\_  
Defendant(s).

**MOTION FOR DEFAULT FINAL JUDGMENT  
UNLAWFUL DETAINER**

Plaintiff asks the court to enter a Default Final Judgment against \_\_\_\_\_  
[name]

Defendant, for Unlawful Detainer and says:

1. Plaintiff filed a complaint alleging grounds for an Unlawful Detainer of Defendant.
2. A Default was entered by the Clerk of this Court on \_\_\_\_\_  
[date]

WHEREFORE, Plaintiff asks this Court to enter a Default Final Judgment for Unlawful Detainer against Defendant.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_

cc: \_\_\_\_\_  
(Insert Name and Address of Tenant)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

\_\_\_\_\_  
Plaintiff(s),

CASE NO: \_\_\_\_\_

DIVISION: \_\_\_\_\_

\_\_\_\_\_  
Defendant(s),

**CONSENT TO CASE CLOSURE AFTER 90 DAYS OF INACTIVITY**

I, \_\_\_\_\_ (Plaintiff/Landlord) hereby consent, without further notice, to the dismissal and closure of this case file after 90 days of inactivity have elapsed.

I hereby certify that a true and correct copy of this Consent will be furnished by U.S. mail or included with the initial service of process to the above named respondent(s).

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Plaintiff

**IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA**

\_\_\_\_\_  
PLAINTIFF(S)

v.

CASE NO: \_\_\_\_\_

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 Flagler, 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 Flagler 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 Bunnell, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**COUNTY JUDGE**

**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting uniform data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

**I. CASE STYLE**

**In the COUNTY Court of the Seventh Judicial Circuit in and for FLAGLER COUNTY, FLORIDA**

\_\_\_\_\_  
Plaintiff

Case #: \_\_\_\_\_

vs.

Judge: \_\_\_\_\_

\_\_\_\_\_  
Defendant

**II. AMOUNT OF CLAIM**

Please indicate the estimated amount of the claim, rounded to the nearest dollar. The estimated amount of the claim is requested for data collection and clerical processing purposes only. The amount of the claim shall not be used for any other purpose. \$\_\_\_\_\_.

- ☐ \$8,000 or less
- ☐ \$8,001 - \$30,000
- ☐ \$30,001- \$50,000
- ☐ \$50,001- \$75,000
- ☐ \$75,001 - \$100,000
- ☐ over \$100,000.00

**III. TYPE OF CASE** (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

**CIRCUIT CIVIL**

- ☐ Condominium
- ☐ Contracts and indebtedness
- ☐ Eminent domain
- ☐ Auto negligence
- ☐ Negligence—other
  - ☐ Business governance
  - ☐ Business torts
  - ☐ Environmental/Toxic tort
  - ☐ Third party indemnification
  - ☐ Construction defect

- ☐ Mass tort
- ☐ Negligent security
- ☐ Nursing home negligence
- ☐ Premises liability—commercial
- ☐ Premises liability—residential
- ☐ Products liability
- ☐ Real property/Mortgage foreclosure
  - ☐ Commercial foreclosure
  - ☐ Homestead residential foreclosure
  - ☐ Non-homestead residential foreclosure
  - ☐ Other real property actions
- ☐ Professional malpractice
  - ☐ Malpractice—business
  - ☐ Malpractice—medical
  - ☐ Malpractice—other professional
- ☐ Other
  - ☐ Antitrust/Trade regulation
  - ☐ Business transactions
  - ☐ Constitutional challenge—statute or ordinance
  - ☐ Constitutional challenge—proposed amendment
  - ☐ Corporate trusts
  - ☐ Discrimination—employment or other
  - ☐ Insurance claims
  - ☐ Intellectual property
  - ☐ Libel/Slander
  - ☐ Shareholder derivative action
  - ☐ Securities litigation
  - ☐ Trade secrets
  - ☐ Trust litigation

#### COUNTY CIVIL

- ☐ Civil
- ☐ Real property/Mortgage foreclosure
- ☐ Replevins
- ☐ Evictions
  - ☐ Residential Evictions
  - ☐ Non-residential Evictions
- ☐ Other civil (non-monetary)

#### IV. REMEDIES SOUGHT (check all that apply):

- ☐ Monetary;
- ☐ Nonmonetary declaratory or injunctive relief;
- ☐ Punitive

#### V. NUMBER OF CAUSES OF ACTION: [ ] (Specify)

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**VI. IS THIS CASE A CLASS ACTION LAWSUIT?**

\_\_\_ yes  
\_\_\_ no

**VII. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

\_\_\_ no  
\_\_\_ yes If "yes," list all related cases by name, case number, and court.

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**VIII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

\_\_\_ yes  
\_\_\_ no

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature: \_\_\_\_\_  
(Attorney or party)

\_\_\_\_\_  
(type or print name)

Fla. Bar #: \_\_\_\_\_  
(Bar # if attorney)

\_\_\_\_\_  
(Date)