



**Brandon Patty**  
**St. Johns County Clerk of the Circuit Court and Comptroller**  
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## **UNLAWFUL DETAINER**

Unlawful Detainer is a county court lawsuit, filed pursuant to Florida Statute Chapter 82, to request that a person be ordered to leave your property. It is like an eviction proceeding except that in an Unlawful Detainer case, there is no **landlord/tenant relationship** between parties. In other words, there is no agreement to pay rent either verbal or in writing. If there is an **agreement to pay rent**, whether verbal or in writing, you should consider filing an eviction case. Consult with an attorney if you have questions about the appropriateness of this filing.

### **When should this packet be used?**

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

### **Forms in this packet:**

- Civil Cover Sheet, Form 1.997
- Unlawful Detainer Complaint
- Affidavit of Military Service
- Motion for Default

**Information or forms provided by the clerk of 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 the filing of a lawsuit or answering a lawsuit and questions about your situation should be directed to 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 for St. Johns County Legal Aid by calling (904) 827-9921. The Legal Aid offices are located at 222 San Marco Avenue, St. Augustine, FL 32084.**

## **STEP-BY-STEP INSTRUCTIONS**

### **STEP 1 – COMPLETE THE FORMS**

Complete the following forms:

- Civil Cover Sheet, Form 1.997
- Unlawful Detainer Complaint
- Affidavit of Military Service

### **STEP 2 – NOTARY**

Sign the Complaint and Affidavit of Military Service in front of a Notary or Deputy Clerk. Please comply with the Service Members Civil Relief Act (SCRA) (formerly known as Soldiers' and Sailors' Civil Relief Act of 1940).

### **STEP 3- FILE YOUR CASE**

Your Unlawful Detainer paperwork can be filed in person or mailed to the clerk of court at:

St. Johns County Clerk of Court  
Attn: Civil Division  
4010 Lewis Speedway  
St. Augustine, FL 32084

Note: There is a filing fee of \$300.00 and a \$10.00 summons fee per defendant due at case initiation.

### **STEP 4 – NOTIFYING THE DEFENDANT(S)**

Once a case has been filed, a copy of the Complaint and the Summons must be served on the Defendant(s) by the Sheriff's Office or a Private Process Server. A \$40.00 Sheriff service fee per defendant can be paid at the time of filing and the clerk of court will forward your paperwork to the Sheriff for service on the defendant(s).

### **STEP 5 – AFTER SERVICE**

After a Defendant has been served, they have 5 working days (excluding weekends and legal holidays) to file a written response with the clerk of court and provide a copy to the Plaintiff.

- **If a Defendant files an answer:** The answer is forwarded to the appropriate Judge's office for review. If the court determines a hearing should be set on the matter, a Notice of Hearing will be furnished to all parties by US Mail or Email (if provided).
  - Once both sides have presented their evidence the Judge will make a decision.
  - If the Court enters a Judgment for Possession, the Plaintiff can request the clerk of court enter a Writ of Possession.

- **If a Defendant fails to file an answer** within 5 working days, you must file the Motion for Default form with the clerk of court.
  - When the Court enters a Judgment for Possession, the Plaintiff can request the clerk of court enter a Writ of Possession.

**STEP 6 – WRIT OF POSSESSION**

Once you have a Final Judgment signed by the Judge, you may request a Writ of Possession be issued by the clerk of court by contacting our office.

- There is a \$90.00 fee for the Sheriff’s office to execute the Writ of Possession and remove Defendant(s) from the property.

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**SCHEDULE OF FEES**

All filing fees and Sheriff’s Office service fees are due at the time of filing your suit. Filing fees are made payable to: **Clerk of Courts** and may be paid for by Local Business or Personal Check, Money Order, Cashier’s Check, Cash, MasterCard, Visa, or American Express. **NOTE: THE CLERK DOES NOT ACCEPT OUT-OF-STATE PERSONAL CHECKS.**

UNLAWFUL DETAINER FILING FEE:	\$300.00
SUMMONS ISSUANCE FEE PER DEFENDANT:	\$10.00

**SHERIFF SERVICE FEES:**

SERVICE OF SUMMONS PER DEFENDANT:	\$40.00
WRIT OF POSSESSION:	\$90.00