UNLAWFUL DETAINER PACKET
(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 THE HOME (YOU ARE THE OWNER OR ARE THE LEGAL TENNANT), 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),

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, 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 unsure.

FORMS IN THIS PACKET	WHEN TO USE
• Unlawful Detainer Complaint	➢ Required to start the case
• Unlawful Detainer Summons	➢ 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	➢ Use if no answer is filed ➢ For the Clerk to issued is the Judge grants the Final Judgment

Information or forms provided by the Clerk of the 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.

Florida Rural Legal Services
(800)476-8937
http://www.frls.org

IF THIS PACKET IS NOT PROPERLY COMPLETED AND PARTIES NOT PROPERLY SERVED, YOUR CASE MAY BE DISMISSED AND YOU MAY NOT OBTAIN A FINAL JUDGMENT.

The filing fee for an Unlawful Detainer is **$185.00** plus an additional **$10.00** per summons per person made payable in cash, check, credit card, money order, or cashier's check to **Nadia K. Daughtrey**. ***Please note that payments made with a credit card are subject to a 3.5% fee****

FILING THE UNLAWFUL DETAINER PAPERWORK:

- Please completely fill out the following forms by typing or clearly printing the addresses of the parties and fill in the appropriate blank lines. Sign the complaint before a notary public or deputy clerk.
- Once completed, the Clerk's office will prepare a summons advising the Defendant(s) to submit a written response to the Clerk's office within five (5) days (NOT including the day of service, weekends, or legal holidays).

IF YOU ARE FILING AGAINST A HUSBAND AND WIFE, YOU WILL NEED A SUMMONS ISSUED FOR EACH OF THEM, AND HAVE THE SHERIFF'S OFFICE SERVE EACH OF THEM.

- You are to take the summons packet to the Sheriff's Office to have the Defendant(s) served. A service fee of $40.00 per person is required by the DeSoto County Sheriff's Office, payable directly to them. You will receive a copy of the Summons packet for your records from the Clerk's office at no charge.

- If a written response with supporting documents is filed, a court date may be scheduled by the presiding County Court Judge. Notification of the hearing date will be mailed to both parties. At the hearing, the Court will make the determination if the Defendant(s) should be made to move.

- If the Defendant(s) fails to file a written response, complete the forms in the **Default Package** and follow the direction sin order to regain possession of the property.

- If a Final Judgment is entered by the Court, the Clerk's office will prepare a **Writ of Possession.** You will take the Writ of Possession to the Sheriff's office for service. The Sheriff's office will require a fee of **$90.00** for service. Once the Writ of Possession is served by the Sheriff's office the Defendant(s) will have 24 hours to vacate the premises.

*****NOTICE*****

ALL PAPERWORK PROVIDED BY THIS OFFICE IS USED FOR 'PRO SE' LITIGANTS ONLY. 'PRO SE' MEANS THAT YOU ARE ACTING AS YOUR OWN ATTORNEY. ACTING AS YOUR OWN ATTORNEY MAKES YOU RESPONSIBLE FOR EVERYTHING THAT INVOLVES YOUR CASE FILE. FOR EXAMPLE, IF YOU DO NOT RECEIVE A COURT DATE OR NOTICE FROM THIS OFFICE OR THE JUDGE, IT IS UP TO YOU TO CONTACT THE JUDGE FOR A HEARING DATE.

THIS PACKET PREPARED BY:

HONORABLE PARKER R. HALL
COUNTY COURT JUDGE
DESOTO COUNTY, FLORIDA
115 EAST OAK STREET
ARCADIA, FLORIDA 34266

HONORABLE NADIA K. DAUGHTREY
CLERK OF COURTS
DESOTO COUNTY, FLORIDA
115 EAST OAK STREETS
ARCADIA, FLORIDA 34266

N THE COUNTY COURT OF THE TWELFTH JUDICIAL CIRCUIT,

DESOTO COUNTY, FLORIDA

_____

_____

PLAINTIFF(S)

CASE NUMBER: _____

_____

_____

DEFENDANT(S)

COMPLAINT FOR UNLAWFUL DETAINER

Plaintiff(s), _____**,** sue(s) Defendant**(s),**

_____**,** stating as follows:

1. This is a cause of action for unlawful detainer pursuant to Chapter 82, Florida Statutes.

2. Plaintiff(s) is/are entitled to possession of the following real property (address or legal description):_____
   _____

3. Plaintiff(s) is/are entitled to possession of the real property by virtue of the following:-
   _____
   _____

4. Without the consent of Plaintiff(s), Defendant(s) occupied or otherwise made use of the property described in Paragraph 2 above.

5. On or about (date) _____, Plaintiff(s) revoked the consent, informed Defendant(s) of this revocation, and demanded that Defendant(s) vacate the premises.

6. Defendant(s), however, has/have refused to vacate the premises.

7. There is no residential rental agreement between Plaintiff(s) and Defendant(s)

8. In accordance with section 82.04(1), Florida Statutes, Plaintiff(s) is/are entitled to summary procedure under section 51.011, Florida Statutes.

WHEREFORE, Plaintiff(s) respectfully request(s) that the court (1) find that Defendant(s) wrongfully hold(s) possession of the subject property; (2) grant Final Judgment in favor of Plaintiff(s) and against Defendant(s); (3) order the issuance of a Writ of Possession in accordance with section 82.091, Florida Statutes; and (4) grant to the Plaintiff(s) such other relief as is justified by the circumstances in this case.

Date: _____

_____
Signature of Plaintiff(s)

_____
Printed name(s) of Plaintiff(s)

_____

_____
Address, City, State, Zip Code of Plaintiff(s)

_____
Telephone Number (s) of Plaintiff(s)

STATE OF FLORIDA
COUNTY OF DESOTO

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 OF THE TWELFTH JUDICIAL CIRCUIT,
DESOTO COUNTY, FLORIDA

_____

_____
PLAINTIFF(S)

CASE NUMBER: _____

_____

_____
DEFENDANT(S)

SUMMONS FOR UNLAWFUL DETAINER
(5 DAY SUMMONS: CLAIM FOR POSSESSION OF PREMISES)

TO: (DEFENDANT)
NAME(S):_____
ADDRESS: _____
CITY, STATE, ZIP: _____
PHONE NUMBER: _____

PLEASE READ CAREFULLY

You are being sued by (Plaintiff)_____ to require you to move out of the property located at _____ _____for the reasons given in the attached complaint.

You are entitled to a trial to decide whether you can be required to move, but you must do BOTH of the things listed below. You must do the following within 5 DAYS (not including Saturday, Sunday or legal holidays) after the date these papers were served to you or to a person who lives with you, (excluding the Plaintiff) or were posted at the residence.

THE THINGS YOU MUST DO TO CHALLENGE THE UNLAWFUL DETAINER COMPLAINT ARE AS FOLLOWS:

1. Write down the reason why you think you should not be forced to move. The written response must filed with the Clerk of the Court by either hand-delivery or U.S. mail at the following address:

DESOTO COUNTY CLERK OF COURT
115 EAST OAK STREET
ARCADIA, FL 34266

2. Mail or hand-deliver a copy of your written response to: (Plaintiff's name and address):

_____

_____

IF YOU DO NOT DO THESE TWO THINGS WITHIN 5 DAYS (NOT INCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS), A JUDGMENT TO REMOVE YOU FROM THE PREMISES MAY BE ENTERED WITHOUT A HEARING OR FURTHER NOTICE.

TO THE STATE OF FLORIDA
TO EACH SHERIFF OF THE STATE:

You are commanded to serve this this summons and a copy of the complaint in this lawsuit on the above-names Defendant(s).

DATED on the _____day of_____, 20_____.

NADIA K. DAUGHTREY,
CLERK OF THE COURT

{SEAL}

BY:_____
Deputy Clerk

I HEREBY CERTIFY that a copy of the SUMMONS and COMPLAINT in this cause was sent by first class mail to the premises involved in the proceeding to the Defendant(s) as required by section 82.05(2), Florida Statutes.

WITNESS my hand and Official Seal on the _____day of_____, 20_____, in DeSoto County, Florida.

BY:_____
Deputy Clerk

IN THE COUNTY COURT OF THE TWELFTH JUDICIAL CIRCUIT,
DESOTO COUNTY, FLORIDA

_____

_____
PLAINTIFF(S)

CASE NUMBER: _____

_____

_____
DEFENDANT(S)

AFFIDAVIT OF MILITARY SERVICE

I, _____, am the Plaintiff/Petitioner in this case. To support my application for a default judgment against Defendant(s), _____ _____, and to comply with the Servicemembers Civil Relief Act (SCRA) (formerly known as Soldiers' and Sailors' Civil Relief Act of 1940), I swear or affirm that the following information is true:
{Please choose only one}

1. _____ I know of my own personal knowledge that the Defendant/Respondent **IS** on active duty in the military service of the United States.

2. _____ I know of my own personal knowledge that the Defendant/Respondent **IS NOT** now on active duty in the military service of the United States, nor has the Defendant/Respondent been on active military service of the United States within a period of thirty (30) days immediately before this date. "Active Service" includes reserve members of the Army, Navy, Air Force, Coast Guard, and Marines who have been ordered to report for active duty and members of the Florida National Guard who have been ordered to report to active duty for a period of more than thirty (30) days.

3. _____ I have contacted the military service of the United States and the U.S. Public Health Service and have obtained certificates showing that the Defendant/Respondent **IS NOT** on active duty status. These certificates are attached.

4. _____ I have attempted to determine the military status of the Defendant/Respondent, but do not have sufficient information. I have no reason to believe that s/he is on active

duty at this time. This is what I have done to determine whether or not Defendant/Respondent is on active duty in the United States military (must include details):

_____

_____

_____

_____

5. _____ I am unable to determine the military status of the Defendant/Respondent.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Date: _____

_____
Signature of Plaintiff(s)

_____
Printed name(s) of Plaintiff(s)

_____

_____
Address, City, State, Zip Code of Plaintiff(s)

_____
Telephone Number (s) of Plaintiff(s)

STATE OF FLORIDA
COUNTY OF DESOTO

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:_____

DEFAULT PACKAGE
(POSSESSION)

Motion for Clerk's Default

Type or clearly print the names of the parties and fill in the appropriate blank lines. Present the form to the Clerk's office and a deputy clerk will verify that a response has not been filed within the five (5) day time limit. If a response has not been filed the Clerk will enter a Default.

Motion for Final Judgment of Unlawful Detainer

Type or clearly print the names of the parties and fill in the appropriate blank lines. Present the form to the Clerk's office for filing.

If the Court grants the Final Judgment of Unlawful Detainer, the Clerk's office will issue a **WRIT OF POSSESSION**. Once issued, you may then deliver the Writ of Possession to the DeSoto County Sheriff's Office for service. A payment of $90.00 must be made payable to the DeSoto County Sheriff's Office for service of the Writ of Possession. The Sheriff's Office will serve the Writ of Possession indicating the tenant has twenty-four (24) hours to evacuate the premises, not including weekends or holidays. The Sheriff's office will contact the plaintiff to arrange a date and time to evict the tenant.

IN THE COUNTY COURT OF THE TWELFTH JUDICIAL CIRCUIT,
DESOTO COUNTY, FLORIDA

_____

_____
PLAINTIFF(S)

CASE NUMBER: _____

_____

_____
DEFENDANT(S)

MOTION FOR CLERK'S DEFAULT

Plaintiff(s) asks the Clerk to enter a default against Defendant(s)_____ _____ for failing to respond as required by law to the Complaint for Unlawful Detainer. Pursuant to section 51.011, Florida Statutes, Defendant(s) had five (5) days (not including Saturday, Sunday, or legal holidays) to answer the complaint.

CERTIFICATE OF SERVICE

I certify that a copy of this Motion for Clerk's Default was emailed, mailed or hand-delivered (circle one) to the person(s) listed below on the _____ day of _____, 20_____.

Defendant(s) or attorney(s) for Defendant(s):
Name: _____
Address (es):_____
City, State, Zip: _____
Email address:_____

Date: _____

_____
Signature of Plaintiff(s)

_____
Printed name(s) of Plaintiff(s)

_____

_____
Address, City, State, Zip Code of Plaintiff(s)

_____
Telephone Number (s) of Plaintiff(s)

DEFAULT

A default is entered in this action for unlawful detainer against Defendant(s) for failure to respond as required by law.

Date: _____

NADIA K. DAUGHTREY
CLERK OF COURT

BY:_____
Deputy Clerk

IN THE COUNTY COURT OF THE TWELFTH JUDICIAL CIRCUIT,
DESOTO COUNTY, FLORIDA

_____

_____
PLAINTIFF(S)

CASE NUMBER: _____

_____

_____
DEFENDANT(S)

MOTION FOR FINAL JUDGMENT
(UNLAWFUL DETAINER)

Plaintiff (s) asks this Court to enter a Final Judgment against Defendant(s) for unlawful detainer, stating as follows:

1. Plaintiff(s) filed a complaint alleging grounds for unlawful detainer against Defendant (s).
2. A Default was entered by the Clerk on _____.

WHEREFORE, Plaintiff(s) asks this court to enter Final Judgment for Unlawful Detainer against the Defendant(s).

CERTIFICATE OF SERVICE

I certify that a copy of this Motion for Final Judgment was emailed, mailed or hand-delivered (circle one) to the person(s) listed below on the _____ day of _____, 20_____.

Defendant(s) or attorney(s) for Defendant(s):
Name: _____
Address (es):_____
City, State, Zip: _____
Email address:_____

Date: _____

Signature of Plaintiff(s)

Printed name(s) of Plaintiff(s)

Address, City, State, Zip Code of Plaintiff(s)

Telephone Number (s) of Plaintiff(s)

Attachment “A”

IN THE COUNTY COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO/MANATEE/SARASOTA COUNTY, FL

_____,
Plaintiff/Landlord

v.

Case No.: _____

_____,
Defendant/Tenant

CONSENT TO CASE CLOSURE AFTER 90 DAYS OF INACTIVITY

Plaintiff/Landlord does hereby consent to the closure of this case upon 90 days of inactivity.

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail, email service, or initial service of process to the above-named Defendant(s)/Tenant(s) at this address:
_____
_____.

Dated this _____ day of _____, 20___.

_____
Plaintiff/Landlord