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LEGAL ASSISTANCE

We live in a complex society. Our laws and court procedures are often complicated and difficult to understand without specialized training. This is why many people rely on attorneys to help them resolve their legal problems. Below are some questions and answers about legal assistance.

Q: May deputy clerks give legal advice?

A: Deputy Clerks may explain basic court procedures, provide standard forms, and answer questions about deadlines and the completion of forms. However, Florida law prohibits deputy clerks from giving legal advice. They cannot advise customers whether to bring problems to court or what remedies they should seek. This restriction arises from two concerns: (1) that deputy clerks not use their positions with the court to give anyone an unfair advantage in court, and (2) that persons involved in court actions ("litigants") do not rely on information provided by deputy clerks that may prove to be incorrect or inconsistent with court rules and law. Citizens who need legal advice should consult with an attorney.

Q: must litigants have a lawyer to represent them in court?

A: Litigants may represent themselves in court; the legal term used to define self-representation is "Pro-Se" (pronounced pro say). However, remember that laws and court procedures can be complicated. If litigants do not have training, they might make mistakes that could jeopardize their case. If at all possible, litigants should obtain legal counsel. Some actions have been simplified to make it easier for people to represent themselves. Simplified procedures and easy to use forms are available for small claims.

SMALL CLAIMS PACKET

PACKET FEE \$2.00 (due at time of purchase)

FILING FEES ARE DUE AT THE TIME OF FILING THIS ACTION

FILING FEE	\$55.00	CLAIMS LESS THAN \$100.00
FILING FEE	\$80.00	CLAIMS \$101.00-\$500.00
FILING FEE	\$175.00	CLAIMS \$501.00-\$2,500.00
FILING FEE	\$300.00	CLAIMS \$2,501.00-\$8,000.00

***ADD A \$10 SUMMONS FEE PER PERSON FOR ALL PLEADINGS ***
PLUS, THE SHERIFF'S OFFICE/PROCESS SERVER FEE

SMALL CLAIMS COURT

- What is a Small Claims case?

A Small Claims case is a legal action filed in County Court to settle minor legal disputes among parties where the dollar amount involved is \$8,000.00 or less, excluding costs, interest, and attorney fees.

- Is an Attorney necessary?

No. Small Claims court is considered a "peoples court" and a lawyer is not required. Clerk's Office personnel will provide you with the necessary forms for filing a Small Claims case.

- Who can file a Small Claims case?

Any person(s) 18 years or older or any individual doing business as a company, may file a Small Claims case. Each person who is a party to the claim must appear at the Clerk's Office to sign the necessary paperwork in the presence of a Deputy Clerk, or the signatures must be notarized.

- What does it cost to file a Small Claims case?

Filing fees for Small Claims actions are determined by Florida Statutes and are subject to annual change by legislative action. Fees also vary in accordance with the dollar amount of the claim and type of action. Other fees are required for service on the parties sued and are dependent on the type of service selected. Contact the Clerk's Office for current fees.

- What information is needed to file a Small Claims case?

It is important that the claim is filed against the right party. The additional time spent researching the correct name could make a difference in the ability to collect on any judgment entered by the court. Copies of any contracts, notes, leases, receipts, or other evidence in support of the claim must be furnished for each person sued and the court. A full explanation of the reason for the Small Claims action will be necessary.

- Are there other requirements?

If someone other than an individual is sued, additional information is needed to complete the required forms. For example, is the individual doing business as a company, a partnership where there are several people doing business as a company, or corporation?

- What happens after the filing of a Small Claims case?

After the filing of a Small Claims case, each person or business sued must be served with a Summons or Notice to appear in court on the date and time scheduled when the claim was filed. This court date will be a pre-trial conference and parties should be prepared to present their cases in court. At the pre-trial conference mediation is ordered if both parties to the dispute are present and unable to settle their dispute. A mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. Mediation is an informal and non-adversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. If the dispute cannot be settled at the pre-trial conference, a trial date will be scheduled by the court. The parties must appear at the trial with all witnesses and documentation. At the trial, both parties will have an opportunity to explain the case to the judge, ask the other party any questions concerning the claim, present documentation as discussed at the pre-trial conference, and call witnesses.

- Why use mediation?

The Judge will require mediation because:

Mediation is economical. Settlement is viewed as fair by both parties. There is one court meeting. There is no need to subpoena evidence or witnesses and depend on their presence at trial. There is no extensive trial preparation. Mediation preserves personal and business relationships. It allows debtors to arrange repayment plans, avoid a judgment, and preserve credit reputation. Mediation protects privacy and avoids the publicity of trial. Both parties remain in control and participate in a "win-win" solution. The agreement is final and the dispute resolved.

- Is a Jury trial possible in a Small Claims case?

Yes, a trial by jury may be requested by the person filing the Small Claims case, upon written demand at the time the case is filed. The person being sued may request a jury trial within 5 days after service of Notice or at the pre-trial conference.

- What happens to the case if a settlement is reached?

If, at any time the proceedings a settlement is reached by the parties, the person who filed suit must notify the Clerk's Office in writing of the settlement.

- How does a party collect a judgment?

We have brochures in the Clerk's Office provided by the Florida Department of State that will explain your options to you.

- May a lien be filed against the defendant's property?

If a party chooses to place a judgment lien against any individually owned real property of the defendant, following the entry of Judgment, that party should obtain a certified copy of the judgment and have it recorded in the Official Records in the Clerk's Recording Division. Fees for recording are set by statute and are subject to change by legislative action. Contact the Clerk's Office for current fees.

SMALL CLAIMS COVER SHEET

Case Number _____ Date Filed _____

Hearing Date _____

Hearing Time _____

Plaintiff(s) _____

Defendant(s) _____

Amount of Claim _____

Filing Fee _____

Service of Process Fee _____

Summons Execution _____

TOTAL AMOUNT DUE _____

IN THE COUNTY COURT IN AND FOR WAKULLA COUNTY, FLORIDA

Case No. _____

Plaintiff,

vs.

Defendant.

NOTICE TO APPEAR FOR PRETRIAL CONFERENCE/MEDIATION

STATE OF FLORIDA - NOTICE TO PLAINTIFF AND DEFENDANT
(Name & address of Defendant to be served)

YOU ARE HEREBY NOTIFIED that you are required to appear in person or by attorney at the **Wakulla County Courthouse Courtroom B, located at 3056 Crawfordville Hwy Crawfordville, FL 32327**, on the _____ day of _____ at _____ a.m. for a PRETRIAL CONFERENCE.

IMPORTANT -- READ CAREFULLY
THE CASE WILL NOT BE TRIED AT THE PRETRIAL CONFERENCE

DO NOT BRING WITNESSES. YOU MUST APPEAR IN PERSON OR BY ATTORNEY.

WHOEVER APPEARS FOR A PARTY MUST HAVE FULL AUTHORITY TO SETTLE FOR ALL AMOUNTS FROM ZERO TO THE AMOUNT OF THE CLAIM WITHOUT FURTHER CONSULTATION. FAILURE TO COMPLY MAY RESULT IN THE IMPOSITION OF SANCTIONS, INCLUDING COSTS, ATTORNEY FEES, ENTRY OF JUDGMENT, OR DISMISSAL.

The defendant(s) must appear in court on the date specified in order to avoid a default judgment. The plaintiff(s) must appear to avoid having the case dismissed for lack of prosecution. A written MOTION or ANSWER to the court by the plaintiff(s) or the defendant(s) shall not excuse the personal appearance of a party or its attorney at the PRETRIAL CONFERENCE/MEDIATION. The date and time of the pretrial conference CANNOT be rescheduled without good cause and prior court approval.

A corporation may be represented at any stage of the trial court proceedings by an officer of the corporation or any employee authorized in writing by an officer of the corporation. Written authorization must be brought to the Pretrial Conference/Mediation.

The purpose of the pretrial conference is to record your appearance, to determine if you admit all or part of the claim, to enable the court to determine the nature of the case, and to set the case for trial if the case cannot be resolved at the pretrial conference. You or your attorney should be prepared to confer with the court and to explain briefly the nature of your dispute, state what efforts have been made to settle the dispute, exhibit any documents necessary to prove the case, state the names and addresses of your witnesses, stipulate to the facts that will require no proof and will expedite the trial, and estimate how long it will take to try the case.

MEDIATION

Mediation may take place during the time scheduled for the pretrial conference. Mediation is a process whereby an impartial and neutral third person called a mediator acts to encourage and facilitates the resolution of a dispute between two or more parties, without prescribing what the resolution should be. It is an informal and no adversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement.

In mediation, decision making rests with the parties. Negotiations in county court mediation are primarily conducted by the parties. Counsel for each party may participate. However, presence of counsel is not required. If a full agreement is

not reached at mediation, the remaining issues of the case will be set for trial. Mediation communications are confidential and privileged except where disclosures are required or permitted by law.

If you admit the claim, but desire additional time to pay, you must come and state the circumstances. The court may or may not approve a payment plan and may withhold judgment or execution or levy.

RIGHT TO VENUE. The law gives the person or company who has sued you the right to file suit in any one of several places as listed below. However, if you have been sued in any place other than one of these places, you, as the defendant(s) have the right to request that the case be moved to a proper location or venue. A proper location or venue may be one of the following: [1] where the contract was entered into;

[2] if the suit is on unsecured promissory note, where the note is signed or where the maker resides; [3] if the suit is to recover property or to foreclose a lien, where the property is located; [4] where the event giving rise to the suit occurred; [5] where any one or more defendant(s) sued reside; [6] any location agreed to in a contract; [7] in an action for money due, if there is no agreement as to where suit may be filed, where payment is to be made.

If you as the defendant(s) believe the plaintiff(s) has/have not sued in one of these correct places, you must appear on your court date and orally request a transfer or you must file a WRITTEN request for transfer, in affidavit form (sworn to under oath) with the court 7 days prior to your first court date and send a copy to the plaintiff(s) or plaintiff's attorney, if any

A copy of the statement of claim shall be served with this summons.

DATED ON _____.

GREG JAMES
Wakulla County Clerk of the Court

By: _____
Deputy Clerk

In accordance with the Americans With Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact the Receptionist at 3056 Crawfordville Hwy Crawfordville, FL 32327, telephone (850) 926-0300, not later than (7) days prior to the proceeding. If hearing impaired, TDD 711, or Voice (v) 711, via Florida Relay Service.

IN THE COUNTY/CIRCUIT COURT OF THE 2nd JUDICIAL
CIRCUIT IN AND FOR Wakulla COUNTY, FLORIDA

Plaintiff/ Petitioner/State

v.

CASE NO: _____
DIVISION: _____

Defendant/ Respondent

**DESIGNATION OF E-MAIL ADDRESS FOR A PARTY
NOT REPRESENTED BY AN ATTORNEY [FORM 2.602]**

Pursuant to Fla. R. Gen. Prac. & Jud. Admin. 2.516(b)(1)(C),
I, _____, designate the e-mail address(es) below for
electronic service of all documents related to this case.

By completing this form, I am authorizing the court, clerk of court, and all parties to send copies
of notices, orders, judgments, motions, pleadings, or other written communications to me by e-
mail or through the Florida Courts E-filing Portal.

I understand that I must keep the clerk's office and any opposing party or parties notified of my
current mailing address or e-mail address. I will file a written notice with the clerk if my mailing
address or e-mail address changes again.

Designated e-mail address: _____

Secondary designated e-mail address(es), if any: _____

I certify that a copy has been furnished on _____, by e-mail, delivery,
 mail [choose one] to: Clerk of Court for _____ County, and
to: _____

(insert name(s) and address(es))

Signature: _____

Printed Name: _____

E-mail address: _____

Address: _____

Phone number: _____

IN THE COUNTY COURT IN AND FOR WAKULLA COUNTY, FLORIDA

Case No. _____

Plaintiff,

vs.

Defendant.

STATEMENT OF CLAIM

Plaintiff, _____, sues Defendant, and alleges:

1. This is an action for damages which does not exceed \$8,000.00.
2. Plaintiff(s) claims the amount of \$ _____ with interest from _____, as being due from said Defendant(s), and alleges as the basis of such suit:

WHEREFORE, Plaintiff demands judgment in the amount of \$ _____, plus all costs of this action.

**STATE OF FLORIDA
COUNTY OF WAKULLA**

The undersigned, being first duly sworn on oath, says the foregoing is a just and true statement of the amount owing by Defendant to Plaintiff, exclusive of all set-offs and just grounds of defense.

Plaintiff

Address

Phone number

**STATE OF FLORIDA
COUNTY OF WAKULLA**

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

GREG JAMES
Wakulla County Clerk of Court

By: _____
Deputy Clerk/Notary

Printed Name

Collecting a Judgment

What is a Judgment?

A judgment must be a final order from a Florida state court or from a United States District Court in Florida. To be “final,” the judgment must contain conclusive and customary language establishing that judicial labor is at an end and the order is truly dispositive and final. Because execution is not permitted on judgments that do not determine with finality the rights and liabilities of the parties, the “final judgment” must not leave questions open for judicial determination.

If you wish to collect on a judgment, you will need to obtain a certified copy of it from the Clerk’s Office. The fees for copies, certification, and recording are listed on our website.

Judgment Lien against Personal Property (FS Chapter 55)

The judgment creditor may obtain a judgment lien against personal property owned by the judgment debtor by recording a Judgment Lien Certificate with the Florida Department of State. This is required before the Sheriff’s Office can levy on personal property under FS chapter 77.

A judgment lien may be acquired on a judgment debtor's interest in all personal property in this state subject to execution under FS 56.061, other than fixtures, money, negotiable instruments, and mortgages. All of the judgment debtor's personal property located in Florida may be subject to such a lien. FS chapter 222 provides that certain property and wages of a judgment debtor may be exempt from forced sales and garnishment to pay a valid judgment.

Instructions and forms are available at www.sunbiz.org/jlien_info.html, and general information is available at www.sunbiz.org/jlien_how_to.html. A judgment lien lapses after 5 years but can be extended another 5 years by filing another judgment lien certificate. A judgment lien against real property cannot be filed through the Florida Department of State.

Judgment Lien against Real Property (FS Chapter 55)

The judgment creditor may obtain a judgment lien against real property owned by the judgment debtor by having a certified copy of the judgment/order recorded in the Official Records of the county where the property is located.

A judgment, order, or decree does not become a lien on real property unless the address of the person who has a lien as a result of such judgment, order, or decree is contained in the judgment, order, or decree or an affidavit with such address is simultaneously recorded with the judgment, order, or decree. Judgment liens on real property last for ten (10) years and may be renewed for an additional ten (10) years one time, not to exceed twenty (20) years from the date of the initial judgment.

In the case of bank garnishments you may obtain the funds being held by the garnishee by filing a motion requesting that the court order the garnishee to release said funds. This request must be made within six months of the Writ of Garnishment being served on the garnishee and should be specific as to the amounts requested to be released and should be consistent with the judgment.

Claims of Exemption against Garnishment

A judgment debtor who is an individual (exemptions do not exist for businesses) may claim certain exemptions (as set forth in FS 222) within twenty (20) days of the garnishee's being served with the Writ by filing a Claim of Exemption and Request for Hearing. If you are a judgment debtor claiming exemptions, please be sure to completely fill out the Certificate of Service section at the bottom of the Claim of Exemption form.

If the judgment debtor files a Claim of Exemption, the judgment creditor will have three business days (if the Claim of Exemption is hand-delivered) or eight business days (if the Claim of Exemption is mailed) to file an objection to said exemptions. If exemptions are claimed, wages, money, or property subject to the garnishment will continue to be garnished until further order of the court; however, they will be held in escrow until any dispute over the exemptions is resolved by the court. If a hearing is scheduled, the Clerk's Office or judge will notify the parties of the date and time via mail.

If the judgment creditor fails to file objections to the judgment debtor's Claim of Exemption within the allotted time frame, a hearing will not be required and the Writ of Garnishment will be dissolved by the Clerk. All parties will be notified via mail of the dissolution of the writ, and any wages, money, or property being held in escrow will be released back to the judgment debtor.

Sheriff's Levy (FS Chapters 30, 55, 56 & 77)

Once the judgment creditor has registered a judgment lien certificate against the judgment debtor's personal property with the Florida Secretary of State, he or she may request that the Sheriff's Office "levy" (or seize) this property. Once the property has been levied, the Sheriff's Office will sell it and the money received from the sale will be paid out under FS 56.27. Levy is done through the issuance of service of a Writ of Execution; it is a very technical procedure and you may wish to consult with an attorney.

The judgment creditor may apply for a Writ of Execution by filing a Motion for Writ of Execution and Writ of Execution with the Clerk's Office to have the Clerk issue the Writ of Execution. For additional forms, instructions and further information, contact the Sheriff of the County where the property to be levied is located. In Leon County, the Sheriff's Office provides the following information

Satisfaction of Judgment (FS Chapter 55)

A satisfaction of judgment is a legal document prepared by a judgment creditor attesting to the fact that a judgment debtor has paid, and therefore satisfied, a court acknowledged debt (or judgment). It may be obtained in one of two ways:

1. Privately, by obtaining from the judgment creditor, and recording in the Official Records where judgment was rendered, a Satisfaction of Judgment; or
2. Through the Clerk of Court by submitting a Request for Judgment Payoff with a document preparation fee payable to the Clerk of the Circuit Court.

All judgments for the payment of monies rendered in the Florida courts may be satisfied at any time (prior to the actual levy of execution-garnishment or sheriff's levy) by payment of the full amount of the judgment principle plus interest and costs into the Registry of the Court where judgment was rendered. Upon payment, the clerk will execute and record in the Official Records, for a fee, a Satisfaction of Judgment, when requested by the judgment creditor. Upon the recording of the satisfaction, any lien created by the judgment is discharged.

USEFUL LINKS:

Forms

- ✓ Civil Fact Information Sheet
- ✓ Civil Indigence Application
- ✓ Claim of Exemption
- ✓ Garnishment Motions, Writs, Information Sheets and Answers
- ✓ General Motion & Order
- ✓ Notice of Hearing
- ✓ Satisfaction of Circuit Civil Judgment
- ✓ Satisfaction of County Civil/Small Claims Judgment

Florida Statutes

Florida Rules of Procedure