

Writ of Possession



Legal Services of Greater Miami, Inc.

Tenants' Rights Project

Renters' Education and Advocacy Legal Lines (REAL)

<https://sites.google.com/site/reallsgmi>

www.lsgmi.org

WHAT IS A WRIT OF POSSESSION?

A Writ of Possession is a “24 hour notice.” It is a court order that tells the Sheriff to put you, everything you own, and everyone in your household out of your home. The 24 hour time period starts from the time the Writ of Possession is posted on your door.

If you have not completely moved out by the time the Sheriff comes back, the Sheriff will remove you, your family and all your belongings from your home. The Sheriff will move you out even if someone is sick, pregnant, or you have another good reason why you do not think you must leave your home.

WHEN WILL THE SHERIFF RETURN?

Usually, the Sheriff will not come back in 24 hours unless the Writ of Possession was expedited by the landlord. If you want to get an idea of when the Sheriff will return to move you out, call Sheriff Services at **(305)375-5100**. Tell them that a Writ of Possession was served on you or posted on your door. Be prepared to give them your case number. Sometimes the Sheriff may give you an estimate of when the Sheriff will return to put you out of your home, but many times they will not be able to do so.

WHAT CAN I DO TO STOP THE SHERIFF?

If you have a good reason why the Sheriff should not put you out of your home, you should file an “Emergency Motion to Stay Writ of Possession & Request A Hearing.” This is a request that the Judge stop the Sheriff from putting you out.

WHAT MUST BE IN THE EMERGENCY MOTION?

The Emergency Motion must say four things:

1. The reasons you should not be put out by the Sheriff. Some reasons may be:

- You never received a copy of the eviction or lawsuit papers except for the Writ of Possession.
- You need extra time to move because someone who lives in the home is very sick or disabled.

You paid the landlord after the eviction was filed and the landlord said you could stay in the home.

2. A request that the Judge stops the Sheriff from putting you out.

3. A request that the Judge gives you a hearing so you can tell the Judge in person why you should not be put out.

4. Any evidence to support your request (i.e. receipt of payment).

You must fax or hand-deliver a copy of the Motion to the landlord’s attorney or to the landlord if he does not have a lawyer. You should write on the Motion how you sent it.

FEE WAIVER

There is a \$25.00 or \$50.00 fee to file the Emergency Motion to Stay Writ of Possession. This depends on how much money the landlord was demanding from you. However, there is an “Application For Determination of Civil Indigent Status” which waives the fee for people with very low incomes.

HOW DO I FILE THE EMERGENCY MOTION TO STAY WRIT OF POSSESSION AND REQUEST A HEARING?

As soon as the Writ of Possession is served on you or posted on your door, you must immediately file the Emergency Motion. File the motion with the Clerk of the County Court at the Court where the case was filed. If you do not know who the Judge is in your case or which court to go to, call the Court at (305)275-1155. Also, bring a copy of the motion to the Judge’s Chambers. The only person who can stop the Sheriff from putting you out is the Judge who ordered the Writ to be issued.

WHAT DO I DO IF THE JUDGE AGREES WITH ME AND GRANTS MY MOTION?

Ask the Clerk of the Court or the Judge’s judicial assistant to fax a copy of the order granting your motion to the Sheriff. This will stop the Sheriff from coming back and putting you out of your house. Also, make sure you have a copy of the order with you at your home. The Judge will most likely order you to go to mediation or schedule another hearing. If the Judge requires you to deposit rent with the court, you must do it by the deadline.



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Main Office

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Monroe County

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Passionately Committed to Equal Justice

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IN THE CIRCUIT/COUNTY COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

CASE NO. _____

Plaintiff/Petitioner or In the Interest Of _____
vs.

Defendant/Respondent _____

APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS

Notice to Applicant: If you qualify for civil indigence you must enroll in the clerk's office payment plan and pay a one-time administrative fee of \$25.00. This fee shall not be charged for Dependency or Chapter 39 Termination of Parental Rights actions.

1. I have _____ dependents. (Include only those persons you list on your U.S. Income tax return.)
Are you Married? Yes No Does your Spouse Work? Yes No Annual Spouse Income? \$ _____

2. I have a net income of \$ _____ paid weekly every two weeks semi-monthly monthly yearly other _____

(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered payments such as child support.)

3. I have other income paid weekly every two weeks semi-monthly monthly yearly other _____.
(Circle "Yes" and fill in the amount if you have this kind of income, otherwise circle "No")

| | | | | | |
|--------------------------------|--------------|----|--|--------------|----|
| Second Job..... | Yes \$ _____ | No | Veterans' benefits..... | Yes \$ _____ | No |
| Social Security benefits | | | Workers compensation..... | Yes \$ _____ | No |
| For you..... | Yes \$ _____ | No | Income from absent family members..... | Yes \$ _____ | No |
| For child(ren)..... | Yes \$ _____ | No | Stocks/bonds..... | Yes \$ _____ | No |
| Unemployment compensation..... | Yes \$ _____ | No | Rental income..... | Yes \$ _____ | No |
| Union payments..... | Yes \$ _____ | No | Dividends or interest..... | Yes \$ _____ | No |
| Retirement/pensions..... | Yes \$ _____ | No | Other kinds of income not on the list..... | Yes \$ _____ | No |
| Trusts..... | Yes \$ _____ | No | Gifts..... | Yes \$ _____ | No |

I understand that I will be required to make payments for fees and costs to the clerk in accordance with §57.082(5), Florida Statutes, as provided by law, although I may agree to pay more if I choose to do so.

4. I have other assets: (Circle "yes" and fill in the value of the property, otherwise circle "No")

| | | | | | |
|----------------------------|--------------|----|---|--------------|----|
| Cash..... | Yes \$ _____ | No | Savings account..... | Yes \$ _____ | No |
| Bank account(s)..... | Yes \$ _____ | No | Stocks/bonds..... | Yes \$ _____ | No |
| Certificates of deposit or | | | Homestead Real Property*..... | Yes \$ _____ | No |
| money market accounts..... | Yes \$ _____ | No | Motor Vehicle*..... | Yes \$ _____ | No |
| Boats*..... | Yes \$ _____ | No | Non-homestead real property/real estate*..... | Yes \$ _____ | No |

*show loans on these assets in paragraph 5

Check one: I DO DO NOT expect to receive more assets in the near future. The asset is _____.

5. I have total liabilities and debts of \$ _____ as follows: Motor Vehicle \$ _____, Home \$ _____, Other Real Property \$ _____, Child Support paid direct \$ _____, Credit Cards \$ _____, Medical Bills \$ _____, Cost of medicines (monthly) \$ _____, Other \$ _____.

6. I have a private lawyer in this case..... Yes No

A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under s. 57.082, F.S. commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S. or s. 775.083, F.S. I attest that the information I have provided on this application is true and accurate to the best of my knowledge.

Signed this _____ day of _____, 20____.

Date of Birth _____ Driver's License or ID Number _____

Signature of Applicant for Indigent Status _____
Print Full Legal Name _____
Phone Number: _____

Address, P O Address, Street, City, State, Zip Code _____

CLERK'S DETERMINATION

Based on the information in this Application, I have determined the applicant to be () Indigent () Not Indigent, according to s. 57.082, F.S.

Dated this _____ day of _____, 20____.

Clerk of the Circuit Court by _____

This form was completed with the assistance of: _____
Clerk/Deputy Clerk/Other authorized person.

APPLICANTS FOUND NOT TO BE INDIGENT MAY SEEK REVIEW BY A JUDGE BY ASKING FOR A HEARING TIME.
THERE IS NO FEE FOR THIS REVIEW.

Sign here if you want the judge to review the clerk's decision _____

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.

Plaintiff,

vs.

Defendant(s)

_____/

EMERGENCY MOTION TO STAY WRIT OF POSSESSION
AND REQUEST FOR HEARING

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I sent a copy of this Emergency Motion to Stay Writ of Possession to

_____, on _____, 20_____.

Defendant's Name: _____

Address: _____

Telephone: _____