

**Writ Practice Under Florida Law**

by

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- and -

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## WRIT PRACTICE UNDER FLORIDA LAW

The following presentation is intended to provide the practitioner a summary of writs commonly utilized under Florida law. Given the obviously expansive nature of this subject, the format selected is limited to providing a basic definition of each writ, the context within which each writ is used, the basic procedure and elements for obtaining each writ and, where possible, sample forms. Citations have also been provided so that the practitioner may quickly find the rules, statutes and cases which govern each particular writ.

### A. EXTRAORDINARY WRITS

Rule 1.630 of the Florida Rules of Civil Procedure acknowledges and establishes procedures for writs which, under common law, were considered "extraordinary writs" because of the nature of the remedy and because the writs were originally issued as a matter of absolute judicial discretion. These extraordinary writs are the writs of mandamus, prohibition, quo warranto, certiorari and habeas corpus.

Although the substantive criteria for the issuance of each writ is distinct, they share a common procedural denominator. All require at minimum a complaint which sets forth the operative facts and demands a request for relief. Fla. R. Civ. P. 1.630(b). If the complaint or petition demonstrates a prima facie case for the requested relief, the court can issue the appropriate process. Fla. R. Civ. P. 1.630(d).

At the trial level, only the circuit court may grant these particular writs. Fla. Const. Art. V, § 5(b). The district courts of appeal has original jurisdiction of all extraordinary writs, Fla. R. App. P. 9.030(b)(3), and the supreme court has the similar original jurisdiction except in the case of writs of certiorari. Fla. R. App. P. 9.030(a)(3).

#### 1. Writ of Mandamus:

A writ of mandamus is a command from a court directed to an inferior court, public officer, corporation or entity, or private officer or corporation, requiring the party to whom it is directed to perform some ministerial act that the party has a duty to perform because of an official position. *Puckett v. Gentry*, 577 So. 2d 965 (Fla. 5th DCA 1991), *review denied*, 591 So. 2d 183 (1992).

Examples of the use of mandamus include to inspect public records, to obtain

licenses, to obtain building permits, and to pay public bonds.

A mandamus is a discretionary writ, not a writ of right (*City of Deland v. Watts*, 423 So. 2d 529 (Fla. 5th DCA 1982)), which may only be issued if the petitioner has a clear legal right to the performance of some legal duty by a public officer or official and no other legal remedies are available. *Pino v. District Court of Appeal, Third District*, 604 So. 2d 1323 (Fla. 1992). Typically the court simply enters a judgment granting the writ which directs the clerk to issue the writ.

## 2. Writ of Prohibition:

A writ of prohibition is a remedy by which a superior court restrains an inferior court or quasi-judicial tribunal from acting outside of its jurisdiction. *Mandico v. Taos Const., Inc.*, 605 So. 2d 850 (Fla. 1992). The writ seeks to forestall future action, not undo actions already done. *Gordon v. Hollo*, 636 So. 2d 563 (Fla. 3d DCA 1994).

A writ of prohibition is appropriately issued under circumstances such as restraining a judge from acting on a matter from which he or she had been disqualified, preventing a retrial where double jeopardy is apparent or a challenge has been raised, and to prevent a trial court from acting while an appeal is pending.

As with mandamus, prohibition is a discretionary writ that should be utilized only in emergency situations to prevent impending injuries and where no alternative legal remedies are available. *Id.* Typically the court simply enters a judgment granting the writ which directs the clerk to issue the writ.

## 3. Writ of Quo Warranto:

A writ of quo warranto is a remedy to test the authority of a person to hold an office or franchise or to exercise a right or privilege that derives from the State. *State ex rel Bruce v. Kiesling*, 632 So. 2d 601 (Fla. 1994). Fla. Stat. ch. 80.

A well-known example of the use of quo warranto involved an action by State Representative Elvin L. Martinez against then-Governor Bob Martinez, which sought to test the Governor's power to call special sessions of the legislature. *Martinez v. Martinez*, 545 So. 2d 1338 (Fla. 1989).

Writs of quo warranto generally are not sought by private individuals, but rather, are brought by public officers, such as attorneys general in the cases of challenges of entitlement to hold a certain public offices. The writ is discretionary and will not be issued if the harm to the public outweighs the benefit to the petitioner. Generally the Court issues the writ.

#### 4. Writ of Certiorari:

A writ of certiorari is a remedy to review interlocutory orders otherwise non-appealable, when such orders depart from essential requirements of law and which will cause material injury to the petitioner throughout the proceeding and cannot be adequately remedied on appeal. *Anderson v. Lore*, 618 So. 2d 369 (Fla. 1st DCA 1993). Fla. Stat. ch. 79.

Certiorari is commonly sought where a trial court enters an erroneous discovery order such as compelling production of confidential records or trade secrets without any protections on dissemination, orders erroneously denying a right to a jury trial and orders improperly disqualifying counsel.

A petition for writ of certiorari is filed in the tribunal whose order is to be reviewed, and then transferred to the superior court for review. The petition must thoroughly allege and demonstrate why the lower tribunal departed from the essential requirements of law and show material injury. Generally the Court issues the writ.

Attorneys frequently err by filing appeals on interlocutory orders. Appellate courts have revealed considerable leniency in treating erroneous appeals from such non-final orders as petitions for writ of certiorari. *Hedin v. Indian River County*, 610 So. 2d 715 (Fla. 4th DCA 1992).

#### 5. Writ of Habeas Corpus:

A writ of habeas corpus is a remedy designed to secure the release of persons illegally detained (or to test the legality of the detention) or to secure the release of those kept from the control of the person entitled to their custody. *Suarez Ortega v. Pujals de Suarez*, 465 So. 2d 607 (Fla. 3d DCA 1985).

An action for a writ of habeas corpus is civil, though it is typically used to test

the legality of the detention of a person under criminal charge. The petitioner generally must demonstrate an entitlement to immediate release. *Bronson v. Fla. Parole & Probation Comm'sn*, 474 So. 2d 409 (Fla. 1st DCA 1985).

## B. POSSESSORY WRITS

### 1. Writ of Replevin:

A writ of replevin is utilized to obtain possession of personal property wrongfully detained by another, and an action for replevin also permits the recovery of damages sustained thereby. Fla. Stat. § 78.01.

The writ is obtained by filing a complaint for replevin, and can either be ordered by the court after a hearing pursuant to Fla. Stat. § 78.065, or prejudgment without notice upon a verified showing that "the defendant is engaging in, or about to engage in, conduct that may place the claimed property in danger of destruction, concealment, waste, removal from the jurisdiction of the court, or transfer to an innocent purchaser during the pendency of the action or that the defendant has failed to make payment as agreed." Fla. Stat. § 78.068(2); *see also Gazil, Inc. v. Super Food Services, Inc.*, 356 So. 2d 312 (Fla. 1978) (articulating five-part test for issuance of prejudgment writ). The latter requires a bond in the amount of twice the value of the goods or twice the balance remaining due, whichever is less. Fla. Stat. § 78.068(3).

The Court directs the Clerk of Court to issue the writ of replevin, which in turn commands the sheriff to replevy the claimed property. Fla. Stat. §§ 78.068(5), 78.08. A sheriff has the authority to break into a dwelling or building, after public demand for delivery of the goods, if he or she has reasonable grounds to believe the goods are concealed therein. Absent reasonable grounds, a "break order" is necessary. Fla. Stat. § 78.10. Practically speaking, most sheriffs require the break order so as to avoid any potential liability.

### 2. Writ of Attachment:

A writ of attachment is utilized to seize property pending an action to recover a judgment on a debt. Fla. Stat. ch. 76. The writ can be sought under three circumstances:

- a. A creditor may receive an attachment pursuant to Fla. Stat. § 76.04 on a debt actually due under twelve statutorily enumerated circumstances such as when the debtor lives out of state or is moving or about to move out of state; is removing or may remove the property out of state; has concealed himself or is secreting the property.
- b. A creditor may receive an attachment on a debt not due under Fla. Stat. § 76.05 when the debtor (1) is removing the property out of state; (2) is fraudulently disposing the property to avoid debt; or (3) is fraudulently secreting property to avoid payment of debt.
- c. A creditor may receive an attachment in aid of foreclosure of mortgages, liens and security agreements on personal property under Fla. Stat. § 76.07, when the creditor believes the property (1) will be concealed or disposed, (2) will be removed beyond the jurisdiction of the court, (3) is perishable and will be used or consumed, or (4) has been disposed.

An attachment proceeding is an ancillary proceeding and must have a civil action to support, such as a suit on a debt or a foreclosure action. A writ of attachment is sought by motion supported by verified allegations. Fla. Stat. §§ 76.08-76.11. The Court may issue the writ upon proper showing and the posting of a bond in the amount of double the debt. Fla. Stat. § 76.12.

### 3. Writ of Distress:

A writ of distress is similar to the writ of attachment, but is limited for use in the context of a commercial tenancy. A writ of distress provides a commercial landlord with a lien for rent on agricultural products raised on the leased land; on all other property of the tenant or any subtenants kept on the land; and on any other property of the tenant. Fla. Stat. § 83.08.

A writ of distress is obtained by filing a civil action for rent due under Fla. Stat. § 83.11 and the posting of a bond in the amount of double the rent due or double the value of the property to be levied. Fla. Stat. § 83.12. Although the statute provides for a court to issue the writ, common practice reveals that a Clerk of Court may issue the writ after the pleading and bond are filed.

### 4. Writ of Garnishment:

A garnishment proceeding is a statutory proceeding ancillary to a civil action and utilized to assist in the collection of a judgment by attaching the assets of a debtor held by a third party, or by attaching a debt owed to a debtor by a third party, in order to apply such assets in discharge of the debt. There are three versions of the writ. All three are generally issued by the Clerk of Court pursuant to an order from the Court.

**a. Pre-Judgment Writ of Garnishment --**

A pre-judgment writ is issued under Fla. Stat. § 77.031(2) by filing a verified motion or affidavit stating (1) the amount of the debt; (2) that the debt is just, due and unpaid; (3) that Plaintiff believes defendant will not have in his or her possession, after execution is issued, property upon which levy can be made; and (4) that the garnishment is not sued out to injure either the defendant or the garnishee. The writ is the same in form as that issued post-judgment; however, bond in the amount of double the debt is required.

**b. Post-Judgment Writ of Garnishment --**

A post-judgment writ is issued under Fla. Stat. § 77.03 by filing a motion stating the "amount of the judgment and that movant does not believe that defendant has in his possession visible property upon which levy can be made sufficient to satisfy the judgment."

**c. Continuing Writ of Garnishment on Salary/Wages --**

A Court may also issue a post-judgment, continuing writ of garnishment which commands the judgment debtor's employer to make periodic deductions from the judgment debtor's salary or wages as they become due and until satisfaction of the judgment or further Order of the Court.

**5. Writ of Execution:**

A writ of execution, generally referred to simply as an "execution," is the final process issued by the Clerk of Court after a final judgment for monetary damages has been issued. Fla. Stat. ch. 56. The execution enforces the judgment by directing the sheriff to levy on the property of the judgment debtor.

The procedure for obtaining an execution is governed by Fla. R. Civ. P. 1.550. An execution is issued by the Clerk of Court upon the oral or written request of the judgment holder, but only after the judgment has been recorded and the time period for filing a motion for new trial or rehearing has expired; or if such a motion has been filed, after it has been determined.

A court may issue by special order an execution at any time after the judgment has been entered. Fla. R. Civ. P. 1.550(a). A special order may issue under circumstances where it is alleged by way of motion for an expedited writ that the judgment debtor is liquidating, disposing, concealing or fraudulently transferring assets, which might result in the absence of assets if the creditor must wait. *See, e.g., Citizens & Southern Financial Corp. v. Helton*, 364 So. 2d 510 (Fla. 1st DCA 1978).

**6. Writ of Possession (Writ of Assistance):**

A writ of possession is utilized to place a person in possession of real property after his or her right to possession has been adjudicated. The purchaser of real property at a judicial sale is also entitled to move for a writ of possession. Fla. R. Civ. P. 1.580.

Generally a judgment or order from a court directs the Clerk of Court to issue the writ and deliver same to the sheriff for execution. The Clerk of Court for Seminole County issues writs of possession as a matter of course and upon the request of a party (as it does with an execution) after a judgment has been recorded and the time period for filing a motion for new trial or rehearing has expired; or if such a motion has been filed, after it has been determined.

**C. SPECIAL WRITS**

**1. Writ of Ne Exeat:**

A writ of ne exeat is a remedy by which a Court may prevent a person from leaving the jurisdiction until security is provided for his or her appearance or for the performance of an order or judgment. Fla. Stat. § 68.02. Since the writ restricts the absolute right of free movement, it is sparingly used or granted. Writs of ne exeat are most commonly encountered in marital actions. *See, e.g.,*

*Kaply v. Kaply*, 427 So. 2d 368 (Fla. 2d DCA 1983) (action arising from fear that wife would leave the jurisdiction with marital property). A party wrongfully imprisoned pursuant to a writ of ne exeat may raise a challenge to the detention through a writ of habeas corpus.

A writ of ne exeat involves a proceeding ancillary to a main action and is sought by a complaint demanding the writ or by motion if the need for the writ arose subsequent thereto. The request for the writ must be supported by verified allegations of threatened departure from the jurisdiction and that the effect of such departure will be to enable the respondent to avoid obligations to the petitioner and thereby render any judgment ineffectual. *Khawly v. Knuck*, 418 So. 2d 1185 (Fla. 3d DCA 1982). Generally the Clerk of Court issues the writ pursuant to an order from the Court.

## 2. Writ of Sequestration:

A writ of sequestration is an uncommonly used equitable remedy whereby the Court obtains legal custody of specific property. In Florida it has been used to preserve certain property during litigation or to enforce obedience with judgments commanding the performance of a specific act or contract. Fla. R. Civ. P. 1.570(c); *Buckley Towers Condominium, Inc. v. Buchwald*, 340 So. 2d 1206 (Fla. 3d DCA 1977). Sequestration can also be used under limited circumstances to obtain possession of a defendant's property in an attempt to secure the appearance of a defendant or to prevent the defendant from secreting the property from the jurisdiction. Fla. Stat. § 68.03.

A writ of sequestration is generally ancillary to a main proceeding and must be brought by way of verified allegations in a motion or pleading. A bond is also imposed in an amount sufficient to protect the sequestered party for any loss resulting from a wrongful seizure of property. The Clerk of Court issues the writ of sequestration pursuant to an order from the Court and the posting of any bond required thereunder.

## 3. Writ of Scire Facias:

The writ of scire facias is used to determine why the person securing its issuance should not have the benefit of some action already taken or some matter already decided. Henry P. Trawick, *Trawick's Florida Practice and Procedure* § 37-9

(1994).

The writ is commonly used to revive dormant judgments, to revive actions after the death of a party, to recover demands after judgments on bonds, and to obtain entry of a judgment against a garnishee in default. *Id.* Although a writ of scire facias remains a viable practice, the more common recent practice is to seek the relief by way of motion. Fla. R. Civ. P. 1.100(d) provides that "[a]ny relief available by scire facias may be granted on motion after notice without the issuance of a writ of scire facias."

WRIT OF MANDAMUS

THE STATE OF FLORIDA:

TO: *(DEFENDANT'S NAME)*

YOU ARE COMMANDED, individually and in your official capacity *(as an officer of (Corporate Name), to forthwith permit plaintiff, in person or by plaintiff's duly authorized agent or representative, to inspect the minutes of any meeting of the board of directors or of the stockholders or of any action taken by the board of directors or the stockholders without a meeting, accounting records of the corporation, the record of stockholders and any other books and records within the provisions of Sections 607.1601 and 607.1602 Florida Statutes from time to time during regular office hours).*

AND THIS YOU SHALL in no wise omit, and how you have obeyed this writ shall be made known to this court on or before *(date)*.

DATED on *(date)*.

*(CLERK'S NAME)*  
As Clerk of the Court

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

WRIT OF PROHIBITION

THE STATE OF FLORIDA:

TO: The Honorable *(Judge's Name)* as Judge of the County Court of *(County)* County,  
Florida

YOU ARE COMMANDED to refrain perpetually from exercising or attempting to  
exercise jurisdiction in the action in the County Court of *(County)* County, Florida, styled  
*(Plaintiff's Name)* as plaintiff vs. *(Defendant's Name)* as defendant, being case *(number)* now  
pending in your court.

DATED on *(date)*.

*(CLERK'S NAME)*  
As Clerk of the Court

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

WRIT OF QUO WARRANTO

THE STATE OF FLORIDA:

TO Each Sheriff of the State:

YOU ARE COMMANDED to summon defendant, *(DEFENDANT'S NAME)*, to show by what warrant or authority of law the defendant claims to *(exercise the office of County Judge of (County) County, Florida)* and to serve written defenses to the complaint on *(Attorney's Name)*, plaintiff's attorney, whose address is *(Address)*, within 20 days after service of this writ on you, exclusive of the date of service, and to file the original of the defenses with the clerk of the court either before service on plaintiff's attorney or immediately thereafter showing by what right or authority of law defendant claims to *(exercise that office)*.

ORDERED at *(location)*, Florida on *(date)*.

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Circuit Judge

WRIT OF HABEAS CORPUS

THE STATE OF FLORIDA:

TO: *(DEFENDANT'S NAME)*

YOU ARE COMMANDED to have the body of *(PLAINTIFF'S NAME)* by you detained with the time and cause of the detention, by whatever name *(PLAINTIFF'S NAME)* shall be called, before me at the *(County)* County Courthouse in *(location)*, Florida immediately after being served with this writ and do what shall then and there be considered concerning the detention and that you have with you this writ.

ORDERED at *(location)*, Florida on *(date)*.

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Circuit Judge

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_

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

\_\_\_\_\_  
Petitioner,

vs.

\_\_\_\_\_  
Respondent.  
\_\_\_\_\_ /

**PETITION FOR A WRIT OF CERTIORARI  
TO THE DISTRICT COURT OF APPEAL,  
" \_\_\_\_\_ " DISTRICT**

To the \_\_\_\_\_ Court of the State of \_\_\_\_\_:

Petitioner, \_\_\_\_\_, presents this, his petition for a writ of certiorari and states:

1. Petitioner seeks to have reviewed \_\_\_\_\_ (an order or a decision) of the District Court of Appeal, \_\_\_\_\_ (X.) District, dated \_\_\_\_\_, 19\_\_\_\_, and filed in the records of said District Court on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in \_\_\_\_\_ Book, page \_\_\_\_\_.

2. This petition is presented under and pursuant to \_\_\_\_\_ (cite constitution) of the Constitution of the State of \_\_\_\_\_, and \_\_\_\_\_ (cite appellate rules).

3. This petition is accompanied by a certified transcript of the record of the proceedings, including the decision petitioner seeks to have reviewed, and a supporting brief.

4. The following are the facts of the case: \_\_\_\_\_ (set forth in lettered subparagraphs; support statements by reference to transcript).

5. On the foregoing facts, the court was presented with the following point of law: \_\_\_\_\_ On this point of law the District Court of Appeal, \_\_\_\_\_ (X.) District, rendered the following decision: \_\_\_\_\_. The same point of law was involved in the case of \_\_\_\_\_ v. \_\_\_\_\_, decided by the District Court of Appeal, \_\_\_\_\_ (Y.), District, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. This decision was reported in \_\_\_\_\_, page \_\_\_\_\_, and a copy of said decision is attached to this petition as Exhibit "\_\_\_\_\_." The facts involved in said case were as follows: \_\_\_\_\_. On these facts the District Court of Appeal, \_\_\_\_\_ (Y.) District, ruled as follows: \_\_\_\_\_

6. The decision of the District Court of Appeal, \_\_\_\_\_ (X.) District, which petitioner seeks to have reviewed, is in direct conflict with the above-mentioned decision of the District Court of Appeal, \_\_\_\_\_ (Y.) District. Because of the reasons and authorities set forth in petitioner's brief, it is believed that the decision hereby sought to be reviewed is erroneous and that the conflicting decision of the District Court of Appeal, \_\_\_\_\_ (Y.) District, is correct and should be approved by this court as the controlling law for the State of \_\_\_\_\_

Wherefore, petitioner requests this court to grant a writ of certiorari or other appropriate writ and to enter its order quashing the decision and order hereby sought to be reviewed, approving the decision of the District Court of Appeal, \_\_\_\_\_ (Y.) District, as the correct decision, \_\_\_\_\_ (where necessary, add: and staying enforcement of said decision and order pending final determination of same in this proceeding.) and granting such other and further relief as shall seem right and proper to the court.

(Signature, Verification, see Captions, Prayers, Etc.)

WRIT OF REPLEVIN

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to replevy the goods and chattels in possession of the Defendant,  
[name and address], described as follows:

[describe]

and to dispose of it according to law.

DATED on \_\_\_\_\_, 199\_\_.

[name]  
As Clerk of the Court

By:  
As Deputy Clerk

WRIT OF ATTACHMENT

THE STATE OF FLORIDA

To Each Sheriff of the State:

YOU ARE COMMANDED to attach and take into custody so much of the lands, tenements, goods, and chattels of defendant, *(name)*, as is sufficient to satisfy the sum of *\$(amount)* and costs.

ORDERED at *(city/county)*, Florida on \_\_\_\_\_, 199\_\_.

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Judge

DISTRESS WRIT

THE STATE OF FLORIDA:

To the Sheriff of \_\_\_\_\_ County, Florida:

YOU ARE COMMANDED to serve this writ and a copy of the complaint on defendant

\_\_\_\_\_.

This distress writ subjects all property liable to distress for rent on the following property  
in \_\_\_\_\_ County, Florida:

*(describe property)*

Each defendant is enjoined from damaging, disposing of, secreting, or removing any property liable to be distrained from the rented real property after the time of service of this writ until the sheriff levies on the property or this writ is vacated or the court otherwise orders. If a defendant does not move for dissolution of the writ, the court may order the sheriff to levy on the property liable to distress forthwith after 20 days from the time the complaint in this action is served. The amount claimed in the complaint is the sum of \$\_\_\_\_\_ with interest and costs.

DATED on \_\_\_\_\_, 199\_\_\_\_\_.

\_\_\_\_\_  
Judge

**CONTINUING WRIT OF GARNISHMENT  
AGAINST SALARY OR WAGES**

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to summon the garnishee, [name and address], who is required to serve an answer to this writ on [name], plaintiff's attorney, whose address is [address], within 20 days after service on the garnishee, exclusive of the day of service, and to file the original with the clerk of this court either before service on the attorney or immediately thereafter. The answer shall state whether the garnishee is indebted to defendant, [name], by reason of salary or wages. The garnishee's answer shall specify the periods of payment (for example, weekly, biweekly, or monthly) and amount of salary or wages and be based on the defendant's earnings for the pay period during which this writ is served on the garnishee.

During each pay period, a portion of the defendant's salary or wages as it becomes due shall be held and not disposed of or transferred until further order of this court. The amount of salary or wages to be withheld for each pay period shall be made in accordance with the following paragraph by court order.

Federal law (15 U.S.C. §§ 1671-1673) limits the amount to be withheld from salary or wages to no more than 25% of any individual defendant's disposable earnings (the part of earnings remaining after the deduction of any amounts required by law to be deducted) for any pay period or to no more than the amount by which the individual's disposable earnings for the pay period exceed 30 times the federal minimum hourly wage, whichever is less.

For administrative costs, the garnishee may collect \$[amount] against the salary or wages of the defendant for the first deduction and \$[amount] for each deduction thereafter.

The total amount of the final judgment outstanding as set out in plaintiff's motion is \$[amount].

FAILURE TO FILE AN ANSWER WITHIN THE TIME REQUIRED MAY RESULT IN THE ENTRY OF JUDGMENT AGAINST THE GARNISHEE FOR THE ABOVE TOTAL AMOUNT OF \$[amount].

ORDERED at [city/county], Florida on \_\_\_\_\_, 199\_\_.

[name]  
As Clerk of the Court

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

## WRIT OF GARNISHMENT

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to summon the garnishee, [name and address], to serve an answer to this writ on [name], plaintiff's attorney, whose address is [address], within 20 days after service on the garnishee, exclusive of the day of service, and to file the original with the clerk of this court either before service on the attorney or immediately thereafter, stating whether the garnishee is indebted to defendant, [name], at the time of the answer or was indebted at the time of service of the writ, or at any time between such times, and in what sum and what tangible and intangible personal property of the defendant the garnishee is in possession or control of at the time of the answer or had at the time of service to this writ, or at any time between such times, and whether the garnishee knows of any other person indebted to the defendant or who may be in possession or control of any of the property of the defendant. The amount set in plaintiff's motion is \$[amount].

DATED on \_\_\_\_\_, 199\_\_.

[name]

As Clerk of the Court

By:

As Deputy Clerk

**CONTINUING WRIT OF GARNISHMENT  
AGAINST SALARY OR WAGES**

THE STATE OF FLORIDA:

To each Sheriff of the State:

YOU ARE COMMANDED to summon the garnishee, \_\_\_\_\_, whose address is \_\_\_\_\_, who is required to serve an answer to this writ on \_\_\_\_\_, plaintiff's attorney, whose address is \_\_\_\_\_, within 20 days after service of this writ, exclusive of the day of service, and to file the original with the clerk of the court either before service on the attorney or immediately thereafter. The answer shall state whether the garnishee is the employer of the defendant \_\_\_\_\_ and whether the garnishee is indebted to the defendant by reason of salary or wages. The garnishee's answer shall specify the periods of payment (for example, weekly, biweekly, or monthly) and amount of salary or wages and be based on the defendant's earnings for the pay period during which this writ is served on the garnishee.

During each pay period, a portion of the defendant's salary or wages as it becomes due shall be held and not disposed of or transferred until further order of this court. The amount of salary or wages to be withheld for each pay period shall be made in accordance with the following paragraph. This writ shall continue until the plaintiff's judgment is paid in full or until otherwise provided by court order.

Federal law (15 U.S.C. §§ 1671-1673) limits the amount to be withheld from salary or wages to no more than 25% of any individual defendant's disposable earnings (the part of earnings remaining after the deduction of any amounts required by law to be deducted) for any pay period or to no more than the amount by which the individual's disposable earnings for the

pay period exceed 30 times the federal minimum hourly wage, whichever is less.

For administrative costs, the garnishee may collect \$\_\_\_\_\_ against the salary or wages of the defendant for the first deduction and \$\_\_\_\_\_ for each deduction thereafter.

The total amount of the final judgment outstanding as set out in the plaintiff's motion is \$\_\_\_\_\_.

FAILURE TO FILE AN ANSWER WITHIN THE TIME REQUIRED MAY RESULT IN THE ENTRY OF JUDGMENT AGAINST THE GARNISHEE FOR THE ABOVE TOTAL AMOUNT OF \$\_\_\_\_\_.

ORDERED at \_\_\_\_\_, Florida, on \_\_\_\_\_, 199\_\_.

*(Name of Clerk)*  
As Clerk of the Court

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

EXECUTION

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to levy on the property subject to execution of \_\_\_\_\_  
in the sum of \$ \_\_\_\_\_ with interest at \_\_\_\_\_ % a year from \_\_\_\_\_, 19\_\_\_\_, until  
paid and to have this writ before the court when satisfied.

DATED on \_\_\_\_\_, 19\_\_\_\_.

*(Name of Clerk)*  
As Clerk of the Court

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

WRIT OF POSSESSION

THE STATE OF FLORIDA:

TO the Sheriff of *(County)* County:

YOU ARE COMMANDED, to remove all persons from the following described property  
in *(County)* County, Florida:

*(legal description)*

and to put *(PLAINTIFF'S NAME)* in possession of it.

DATED on *(date)*.

*(CLERK'S NAME)*  
As Clerk of the Court

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

WRIT OF NE EXEAT

THE STATE OF FLORIDA

To Each Sheriff of the State:

YOU ARE COMMANDED to detain the defendant, \_\_\_\_\_, and to require the defendant to give bond in the sum of \$\_\_\_\_\_ payable to the Governor of Florida and the Governor's successors in office conditioned that the defendant will answer plaintiff's pleading in this action and will not depart from the state without leave of court and will comply with the lawful orders of this court, with sureties to be approved by the clerk of this court. If the defendant does not give the bond, the defendant shall be taken into custody and be confined in the \_\_\_\_\_ County jail until the defendant gives the bond or until further order of this court. If the defendant does not give the bond, the defendant shall be brought before a judge of this court within 24 hours of confinement.

DATED on \_\_\_\_\_, 19\_\_\_\_.

*(Name of Clerk)*  
As Clerk of the Court

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

WRIT OF SEQUESTRATION

THE STATE OF FLORIDA:

TO Each Sheriff of the State:

YOU ARE COMMANDED to sequester and take into custody the property of defendant,  
(DEFENDANT'S NAME), described as:

*(describe property)*

and to deliver the property sequestered to *(Sequestrator's Name)*, as sequestrator, to be held by  
the sequestrator and disposed of in accordance with the further orders of this court.

DATED on *(date)*.

*(CLERK'S NAME)*  
As Clerk of the Court

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

WRIT OF SCIRE FACIAS

THE STATE OF FLORIDA:

TO Each Sheriff of the State:

YOU ARE COMMANDED to serve this writ on defendant, *(DEFENDANT'S NAME)*.

The defendant is required to serve written defenses to this writ on *(Attorney's Name)*, plaintiff's attorney, whose address is *(address)* within 20 days of service of this writ, exclusive of the date of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter, and to show cause thereby why plaintiff should not have *(describe matter or record)*.

If the defendant fails to do so, a default will be entered against the defendant for the relief sought under this writ.

DATED on *(date)*.

*(CLERK'S NAME)*  
As Clerk of the Court

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