

Writ of Execution Requirements on Personal Property

1. **Writ of Execution - Florida Statute 30.231(3), provide one of the following:**
 - a. **Original**
 - b. **Certified copy *or***
 - c. **Electronic copy** (e-filed number on writ)

2. **Writ of Execution Format -**
 - a. The writ of execution shall be in the format as prescribed by the Florida Rules of Civil Procedure (Form 1.914) and shall include wording to comply with Florida Statute 55.03 and case law.

Writ Format for Judgments before July 01,2011 -

Note: Per case law, *R.J. Reynolds Tobacco Co. v. Townsend*, 160 So. 3d 570, effective July 1, 2016 judgments from October 1, 1998 to June 30, 2011 shall accrue interest at the rate ordered until the judgment is satisfied.

Format: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of **(Debtor)**, in the judgment sum of **(\$)**, with legal interest at the rate of **(%)** a year, from **(Month-Day-Year)**, until paid and that you have this before said Court when satisfied.

Example: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of **(John Q. Debtor)**, in the judgment sum of **(\$)**, with legal interest at the rate of **11%** a year, from **November 09, 2008** until paid and that you have this before said Court when satisfied.

≈ **or** ≈

Writ Format for Judgments after July 01, 2011 -

Note: Florida Statute 55.03 (2) and 55.03(3) and case law the interest rates ordered shall go through the end of the year that it was ordered and then it is adjusted annually to the rate set by the Chief Financial Officer. Effective July 1, 2011 (CH 2011-169).

Format: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of **(Debtor)**, in the judgment sum of **(\$)**, with legal interest at the rate of **(%)** a year, from **(Month-Day-Year)** through the end of **(Year)**, and thereafter shall bear interest at the rate set by the Chief Financial Officer of the State of Florida, and as governed by Florida Statute 55.03, until paid and that you have this before said Court when satisfied.

Example: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and

tenements of **(John Q. Debtor)**, in the judgment sum of **(\$)**, with legal interest at the rate of **4.75%** a year, from **November 09, 2012** through **12-31-2012**, and thereafter shall bear interest at the rate set by the Chief Financial Officer of the State of Florida, and as governed by Florida Statute 55.03, until paid and that you have this before said Court when satisfied

3. Levy Instructions - Florida Statute 30.30, specific and complete levy instructions, to include (exemplar upon request):

a. Payment Statement - payments/credits after judgment:

- i. **Example:** Has any payment been made by the debtor on the final judgment in the above styled case? Yes No.

Amount of Payments Made Toward Balance: \$ 450.00.

b. Balance Owed Statement - subtract payments; do NOT include accrued interest after judgment:

Example: Balance Owed - \$9,550.00 (judgment - payments (\$10,000.00 - \$450.00 = \$9,550.00)).

c. Property Specifically Described - include the serial number or vehicle identification number.

- ii. Along with the vin/serial number include information known such as:

1. Make:
2. Model:
3. Color:
4. Year:
5. Vin:
6. Tag #:

Note: If you are unable to provide a serial/vin number that the executing officer can verify then the creditor or creditors agent shall have to “point out the items” **and** include “as pointed out by creditor or creditor’s agent” after the described property.

iii. **Property Location** - Florida Statute 30.321(3):

Provide the best known address **or** addresses where the property can be levied.

d. Harmless - Florida Statute 30.30, include the following statement:

It is expressly understood and agreed that you as Sheriff of Duval County, Florida, and your agents, pursuant to Florida Statutes 30.30, in attempting to execute any Writ or when acting upon the above instructions, shall be held blameless in making a wrongful levy, and further be held blameless against any liability for loss or damages that might be sustained by anyone whosoever by reason of levying upon the above described property and further indemnify the Sheriff for any cost or other expenses, including reasonable attorney’s fees, and should the property for any reason not be sold, including but not limited to the debtor filing bankruptcy, or if upon sale should not

produce sufficient money to pay said costs and fees.

e. Cost Deposit - Florida Statute 30.231(2), include the following statement:

Enclosed herewith is \$_____ advance deposit to cover the costs incident to this levy. In the event that any property seized by the Sheriff of Duval County is to remain in the same location where seizure was affected, then in that event, the creditor shall be required to maintain with the Sheriff a cost deposit sufficient to pay any and all costs including, but not limited to, Sheriff's fees, advertising costs, storage charges and rents as the same may become due and owing. It is expressly understood and agreed that any storage charges or payments for rent shall be paid by the Sheriff from said cost deposit at the time such payments become due. Creditor further guarantees to pay all costs, including reasonable attorney's fees, and should the property for any reason not be sold, including but not limited to debtor filing bankruptcy, or is upon sale should not produce sufficient money to pay said costs and fees above the amount of above deposit for those expenses that may be incurred in making this levy and shall tender these additional funds at the time it becomes necessary for the Sheriff to make payment on the cost incurred.

f. Include Page Numbers -

Format page number such as "1 of 2", "2 of 2".

g. Dated & Signed -

Levy instructions have to be dated and signed by the Judgment Creditor or Judgment Creditor's Attorney. Do not utilize the symbol /s/ for a signature.

h. Scenario Multiple Writs and Levying One Piece of Property -

If you have more than one Writ of Execution and are levying against one (same) piece of property with each writ then you shall need to include separate levy instructions for each writ.

i. Multiple pieces of property levied- If selling more than one levied item please advise as to sell individually or to sell as one lot.

j.

4. Proof of ownership - if the personal property is titled:

Proof of ownership has to include the name of the debtor and the vin/serial number.

5. Creditor's Affidavit that is not limited to, but shall include the following (exemplar upon request):

a. Division of Corporations database/judgment lien records review - Florida Statute 56.27(4)(a), include following statement:

I have reviewed the Florida Department of State Division of Corporations database **OR** judgment lien records established in accordance with ss. 55.201-55.209 at www.sunbiz.org and that the information contained in the affidavit based on that review is true and correct. I found **NO**

judgment liens other than the lien of the judgment creditor in the litigation. **(List your judgment lien)**

JLC #,
Name,
Date filed,
Judgment Amount,
Interest Amount:
Attorney Info (if applicable)

≈ or ≈

I have reviewed the Florida Department of State Division of Corporations database **OR** judgment lien records established in accordance with ss. 55.201-55.209 and that the information contained in the affidavit based on that review is true and correct. I found the following judgments liens, **starting with the most senior and ending with the most junior in numerical order. (Include your judgment lien)**

1. (Senior) JLC (File No.) #:
Judgment Creditor's Name:
Judgment Debtor's Name:
Date of Filing:
Judgment Amount:
Interest:
Attorney Info:

2. (Junior) JLC (File No.) #:
Judgment Debtor:
Judgment Creditor:
Date and time of Filing:
Judgment Amount:
Interest:
Attorney Info:

Note: When completing this section you are to tell the Sheriff that you reviewed either the *Florida Department of State Division of Corporations database OR the judgment lien records established in accordance with ss. 55.201-55.209 at www.sunbiz.org.*

Note: All judgment liens to include your own must be listed, even if yours is the only one filed.

Note: Do NOT use see attachment(s) or enclosure(s). You must be specific in identifying

which judgment lien is senior, and then who is next in seniority, et cetera...the Sheriff cannot determine or assume seniority.

- b. Florida Secured Transaction Registry (www.floridaucc.com)** - Florida Statute 56.21, include the following statement:

I have searched the Florida Secured Transaction Registry (www.floridaucc.com) database and found the following secured creditor(s); who have filed a financing statement as provided in part V of Chapter 679 in the name of the judgment debtor(s) reflecting a security interest in property of the kind to be sold at the execution sale. (**List by name**)

≈ or ≈

I have searched the Florida Secured Transaction Registry (www.floridaucc.com) database and found **NO** filings by secured creditors as provided in part V of Chapter 679 in the name of the judgment debtor(s) reflecting a security interest in the property to be sold at execution sale.

- c. Other liens (recorded mortgage(s), financing statements, tax warrants or other liens)** - Florida Statute 56.27, include the following statement:

I have found other liens (recorded mortgage(s), financing statements, tax warrants, or other liens) and I have **listed them by name as follows**:

≈ or ≈

I found **NO** other liens (recorded mortgage(s), financing statements, tax warrants, or other liens).

Note: This information is required in this section and also in the certified mailing statement section along with the address in order to give notice to those listed by certified mailing that the property is being sold. Also if any money is left over after paying all recorded and filed judgment liens then the excess money is placed into the Clerk of Court registry. If no other liens, et cetera. then the excess money is returned to the debtor.

- d. Debtors' Name Statement -**

- iv. If the debtor's name on the title varies from the writ of execution, include a same name statement in your creditor's affidavit.

- e. How the Vehicle/Personal Property is Titled -**

- v. **Property Titled with Co-Owner -**

If there is a co-owner listed on the title; list the co-owner's name.

Example: The vehicle is titled with a co-owner, Mary D. Smith.

Example: The vehicle is only titled in the debtor's name, John Q. Debtor, and there is no co-owner.

vi. **Titled Between Two Co-owners with "OR":**

When there is a registered co-owner that is **NOT** named as a debtor in the body of the Writ, the creditor's affidavit shall need to state that the vehicle is titled as John Doe "OR" Jane Doe.

Example: The vehicle is titled as John Q. Debtor or Mary A. Smith.

vii. **Titled Between Two Co-owners with "AND" -**

When there is a registered co-owner that is **NOT** a debtor the creditor's affidavit shall state the co-owners are **NOT** married, therefore there's no entity of marriage.

Example: The vehicle is titled as John Q. Debtor and Mary A. Smith.

Note: In this scenario both John Q. Debtor and Mary A. Smith are listed as debtors.

Example: The vehicle titled as John Q. Debtor and Mary A. Smith and they are not married.

f. **Debtor's Attorney of Record** - Florida Statute 56.21, include the following statement:

The debtor does **NOT** have an attorney of record.

≈ or ≈

The debtor's attorney of record is John Doe of Doe & Doe Attorneys at Law.

g. **Certified Mailing** - Florida Statute 56.21 and 56.27(4), include the following statement:

Below is a list of all parties that the Sheriff needs to mail certified mail to; to include all creditors, debtors, and owners per Florida Statute 56.21 and 56.27(4):

viii. Attorney of record of the judgment debtor(s) name and addresses.

≈ or ≈

If the judgment debtor(s) does not have an attorney of record, then provide the judgment debtor(s) name and last known address.

ix. Attorneys of record of all judgment creditors, and other lienholders **and/or** All judgment creditors, and other lienholders who do not have an attorney of record, who have acquired a lien as provided in s. 55.10(1) and (2), s. 55.202, s. 55.204(3), or s. 695.01, and whose liens have not lapsed at the time of levy, at the address listed in the judgment lien certificate or other recorded liens, or, if amended, in any amendment thereto. **(List by name and address; include yours) #5a**

x. All secured creditors who have filed financing statements as provided in part V of chapter 679 in the name of the judgment debtor **reflecting a security interest in property of the**

kind to be sold at the execution sale at the address listed in the financing statement, or, if amended, in any amendment to the financing statement. **(List by name and address)**

xi. Each other party holding a mortgage or other lien (recorded mortgage(s), financing statement, tax warrant, or other lien other than a judgment lien) against the personal property as disclosed by the affidavit. **(List by name and address) #5c**

xii. Any Co-Owner(s) not included as a debtor. **(List by name and address)**

xiii. And any other individuals and addresses pursuant to statute. **(List by name and address)**

h. Order of Payment - Florida Statute 56.27(1), include the following statement:

I understand unless a directed Court Order to the Sheriff is received prior to the Sheriff's Sale, all monies received through levy or sale shall be paid as prescribed in 56.27, Florida Statutes; to the Sheriff for cost; the Levying Creditor in the amount of \$500.00 as liquidated expenses; and the priority lienholder(s) under 55.202, 55.204(3); or 55.208(2), Florida Statutes as set forth in this Affidavit required by subsection (4), or his or her attorney, in satisfaction of the judgment lien(s), if the judgment lien(s) have not lapsed at time of levy. The receipt of the attorney shall be a release of the officer paying the money to him or her. If the name of more than one attorney appears in the court file, I have provided to the Sheriff, the name and the address of either the attorney who originally commenced the action or who made the original defense, unless the file show another attorney has been substituted.

i. Surplus of Money from Sale - Florida Statute 56.27(2)(b), include the following statement:

Pursuant to Florida Statute 56.27(2)(b), if the affidavit discloses that the property is also subject to any recorded mortgage, financing statement, tax warrant, or other lien, other than a judgment lien, which is junior in priority to the levying creditors judgment lien, any surplus from the sale of the property shall be paid over to the registry of the court which the execution issued for further proceedings to determine the priority in which such surplus shall be distributed among judgment lien holders, other liens, and the owner of the property sold.

j. Wrongful Levy - Florida Statute 56.27(5), include the following statement:

I understand pursuant to 56.27(5), Florida Statutes, a Sheriff paying money received under an Execution in accordance with the information contained in this affidavit is not liable to anyone for damages arising from a wrongful levy.

k. Levy In Process - Florida Statute 56.27, include the following statement:

I do **NOT** have any other levy in process and I believe in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

≈ or ≈

I **DO** have another levy is in process, and I believe in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

l. Include Page Numbers -

Format page number such as "1 of 2", "2 of 2" etc...

m. Creditors Affidavit Signed/Notarized -

In addition to the affidavit being notarized, it shall be signed and dated by the Attorney of Record or the Levying Creditor. Do not utilize the symbol /s/ for a signature.

6. Final Judgment:

Provide a copy of the final judgment(s).

7. Judgment lien certificate -

- a. A certificate may be established at www.sunbiz.org.
- b. Filing is optional, but most importantly establishes seniority.

8. Fee's and Cost Deposit:

- a. Provide a check written out to the **Jacksonville Sheriff's Office** in the amount determined by the Enforceable Writs Officer for the cost deposit.
- b. Please call ahead of sending the packet to the Sheriff's Office so the Enforceable Writs Officer can advise you on what the cost deposit may be. In real property cases the cost deposit is dependent on the size of the advertisement.

9. Break Order:

- a. If you include a separate Break order ensure it has been "certified."
 - xiv. Certified means it will be signed and have the stamp of the Clerk of Court.

10. Point of Contact:

Provide a point of contact letter with a stamped self-addressed envelope or an email address and indicate you would like an electronic copy of the return of service.

If you have questions, please contact the Enforceable Writs Officers @ 904.255.2480 prior to sending the packet to the Sheriff.

Writ of Execution Requirements on Real Property

1. **Writ of Execution: per Florida Statute 30.231(3) provide one of the following for the writ of execution:**
 - a. **Original**
 - b. **Certified copy** or
 - c. **Electronic copy** (e-filed number on writ)

2. **Writ of Execution Format:**
 - a. The writ of execution will be in the format as prescribed by the Florida Rules of Civil Procedure (Form 1.914), and will include wording to comply with Florida Statute 55.03 and case law.

Writ Format for Judgments before July 01,2011 -

Note: Per case law, *R.J. Reynolds Tobacco Co. v. Townsend*, 160 So. 3d 570, effective July 1, 2016 judgments ordered between October 1, 1998 to June 30, 2011 shall accrue interest at the rate ordered until the judgment is satisfied.

Format: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of **(Debtor)**, in the judgment sum of **(\$)**, with legal interest at the rate of **(%)** a year, from **(Month-Day-Year)**, until paid and that you have this before said Court when satisfied.

Example: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of **(John Q. Debtor)**, in the judgment sum of **(\$)**, with legal interest at the rate of **11%** a year, from **November 09, 2008** until paid and that you have this before said Court when satisfied.

≈ or ≈

Writ Format for Judgments after July 01, 2011:

Note: Per Florida Statute 55.03 (2) and 55.03(3) and case law the interest rates ordered will go through the end of the year that it was ordered and then it is adjusted annually to the rate set by the Chief Financial Officer. Effective July 1, 2011 (CH 2011-169).

Format: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of **(Debtor)**, in the judgment sum of **(\$)**, with legal interest at

the rate of (%) a year, from (Month-Day-Year) through the end of (Year), and thereafter shall bear interest at the rate set by the Chief Financial Officer of the State of Florida, and as governed by Florida Statute 55.03, until paid and that you have this before said Court when satisfied.

Example: YOU ARE HEREBY COMMANDED to levy on the goods and chattels, lands and tenements of (John Q. Debtor), in the judgment sum of (\$), with legal interest at the rate of 4.75% a year, from November 09, 2012 through 12-31-2012, and thereafter shall bear interest at the rate set by the Chief Financial Officer of the State of Florida, and as governed by Florida Statute 55.03, until paid and that you have this before said Court when satisfied

3. Levy Instructions: specific and complete levy instructions per Florida Statute 30.30 to include the following:

a. Payment Statement.

xv. **Example:** Has any payment been made by the debtor on the final judgment in the above styled case? Yes No.

Amount of Payments Made Toward Balance: \$ 450.00.

b. Balance Owed Statement - subtract payments; do NOT include accrued interest after judgment:

Example: Balance Owed - \$9,550.00 (judgment - payments (\$10,000.00 - \$450.00 = \$9,550.00)).

c. Legal Description Statement:

xvi. **Exact** legal description and physical address.

1. If the real property has an assigned physical address, ensure that information is provided.

Note: Have an editable format of the legal description ready to email to the officer executing the levy when requesting the cost deposit. The executing officer will have to prepare a sales notice to obtain your estimate. This same legal description will be utilized in the future by the Enforceable Writs Officer for all documents so ensure it is correct and exactly matches the legal description on the warranty deed/ quitclaim deed.

d. Harmless - Florida Statute 30.30, include the following statement:

It is expressly understood and agreed that you as Sheriff of Duval County, Florida, and your agents, pursuant to Florida Statutes 30.30, in attempting to execute any Writ or when acting upon the above instructions, shall be held blameless in making a wrongful levy, and further be held blameless against any liability for loss or damages that might be sustained by anyone whatsoever by reason of levying upon the above described property and further indemnify the Sheriff for any cost or other expenses, including reasonable attorney's fees, and should the property for any reason not be sold, including but not limited to the debtor

filing bankruptcy, or if upon sale should not produce sufficient money to pay said costs and fees.

e. Cost Deposit - Florida Statute 30.231(2), include the following statement:

Enclosed herewith is \$_____ advance deposit to cover the costs incident to this levy. In the event that any property seized by the Sheriff of Duval County is to remain in the same location where seizure was affected, then in that event, the plaintiff shall be required to maintain with the Sheriff a cost deposit sufficient to pay any and all costs including, but not limited to, Sheriff's fees, advertising costs, storage charges and rents as the same may become due and owing. It is expressly understood and agreed that any storage charges or payments for rent shall be paid by the Sheriff from said cost deposit at the time such payments become due. Plaintiff further guarantees to pay all costs, including reasonable attorney's fees, and should the property for any reason not be sold, including but not limited to debtor filing bankruptcy, or is upon sale should not produce sufficient money to pay said costs and fees above the amount of above deposit for those expenses that may be incurred in making this levy and will tender these additional funds at the time it becomes necessary for the Sheriff to make payment on the cost incurred.

f. Include Page Numbers:

Format page number such as "1 of 2", "2 of 2".

g. Dated & Signed:

Levy instructions have to be dated and signed by the Judgment Creditor or Judgment Creditor's Attorney. Do not utilize the symbol /s/ for a signature.

h. Scenario Multiple Writs and Levying One Piece of Property:

If you have more than one Writ of Execution and are levying against one piece of property with each writ, then you will need to include separate levy instructions for each writ.

i. Multiple pieces of property levied- If selling more than one levied item please advise as to sell individually or to sell as one lot.

4. Warranty/Quitclaim Deed:

The most current copy of the warranty deed or quitclaim deed that has been **certified by the clerk of court.**

5. Creditors' Affidavit that is not limited to but shall include the following:

a. Official Records of the Duval County Clerk of Court/Title Search Statement: In accordance with Florida Statutes 56.27(4)(a)

I have reviewed the **Official Records of the Duval County Clerk of Court** and all the information contained in this Affidavit including a disclosure of all judgment liens, mortgages, financing statements, tax warrants, and other liens against the described real property, based on my review or title search is true and correct.

≈ or ≈

In accordance with Florida Statutes 56.27(4)(a), I have performed **OR** reviewed a **title search** on the real property described in Sheriff's Instructions for Levy, and all the information contained in this Affidavit including a disclosure of all judgment liens, mortgages, financing statements, tax warrants, and other liens against the described real property, based on my review or title search is true and correct.

Note: Indicate that you either "performed" OR "reviewed" a title search. Which means indicate which one you utilized by deleting the one you did not conduct. If it is both then utilize "and."

Judgment Lien(s) per Florida Statute 56.27(4)(a) include the following statement:

I have listed each judgment lien found recorded on each parcel of real property in the **Official Records of Duval County Clerk of Court** described in my levy instructions **starting with the most senior and ending with the most junior in numeric order.**

(Senior) Judgment Creditor/Plaintiff:
Judgment Debtor/Defendant:
Docket No.:
Date and Time of Filing:
Case No.:
Case Style:
Judgment Date:
Judgment Amount:
Interest:

(Junior) Judgment Creditor/Plaintiff:
Judgment Debtor/Defendant:
Docket No.:
Date and Time of Filing:
Case No.:
Case Style:
Judgment Date:
Judgment Amount:
Interest:

≈ OR ≈

I have listed each judgment lien found recorded on each parcel of real property in the **title search** described in my levy instructions **starting with the most senior and ending with the most junior in numeric order.**

(Senior) Judgment Creditor/Plaintiff:
Judgment Debtor/Defendant:

Docket No.:
Date and Time of Filing:
Case No.:
Case Style:
Judgment Date:
Judgment Amount:
Interest:
(Junior) Judgment Creditor/Plaintiff:
Judgment Debtor/Defendant:
Docket No.:
Date and Time of Filing:
Case No.:
Case Style:
Judgment Date:
Judgment Amount:
Interest:

Note: All judgment liens to **include your own** (even if there is only your lien) must be listed. Does NOT use see attachment(s) or enclosure(s) in your affidavit or it will be returned. You must be specific in identifying which judgment lien is senior, then who is next in seniority, et cetera...the Sheriff cannot determine or assume seniority, you must make your list absolutely clear.

b. Florida Secured Transaction Registry (www.floridaucc.com) - Florida Statute 56.21, include the following statement:

I have searched the Florida Secured Transaction Registry (www.floridaucc.com) database and found the following secured creditor(s); who have filed a financing statement as provided in part V of Chapter 679 in the name of the judgment debtor(s) reflecting a security interest in property of the kind to be sold at the execution sale. (**List by name**)

≈ or ≈

I have searched the Florida Secured Transaction Registry (www.floridaucc.com) database and found **NO** filings by secured creditors as provided in part V of Chapter 679 in the name of the judgment debtor(s) reflecting a security interest in the property to be sold at execution sale.

c. Other Liens et cetera. Statement (Per Florida Statute 56.27(4)(a)) include one of the following statements:

I have found other liens (recorded mortgage(s), financing statement, tax warrant, or other lien other than a judgment lien) and listed them by name as follows:

≈ or ≈

I found **NO** other liens (recorded mortgage(s), financing statement, tax warrant, or other lien other than a judgment lien).

Note: This information is required in this section and also in the certified mailing statement section to give notice to those listed by certified mailing that the property is being sold. Also, if any money is left over after paying all recorded and filed judgment liens then the excess money is placed into the Clerk of Court registry. If no other liens, et cetera then the excess money is returned to the debtor.

d. Debtors' Name Statement -

If the debtor's name on the title varies from the writ of execution, include a same name statement in your creditor's affidavit.

e. Property Titled with Co-Owner(s) -

If there is a co-owner listed on the deed that's NOT listed as a debtor; list the co-owner's name.

Example: Titled with co-owner, Mary D. Smith.

When titled Between Co-owners -

When the co-owner(s) are **NOT** named as debtors, then the creditor's affidavit shall state that the co-owners are **NOT** married; therefore, it does not create the entity of marriage.

Example: Deeded as John Q. Debtor and Mary A. Smith and they are not married. John Q. Debtor is the only debtor

f. Debtor's Attorney of Record - Florida Statute 56.21, include the following statement:

The debtor does **NOT** have an attorney of record.

≈ or ≈

The debtor's attorney of record is John Doe of Doe & Doe Attorneys at Law.

g. Certified Mailing- Florida Statute 56.21 and 56.27(4) include the following:

Include this statement:

Below is a list of all parties that the Sheriff needs to mail certified mail to; to include all creditors, debtors, and owners per Florida Statute 56.21 and 56.27(4):

Then include the following that is applicable (You do not have to include the entire paragraph):

xvii. Attorney of record of the judgment debtor(s) name and address.

≈ or ≈

If the judgment debtor(s) does not have an attorney of record, then provide the judgment debtor(s) name and last known address.

- xviii. Attorneys of record of all judgment creditors, and other lienholders **and/or** All judgment creditors, and other lienholders who do not have an attorney of record, who have acquired a lien as provided in s. 55.10(1) and (2), s. 55.202, s. 55.204(3), or s. 695.01, and whose liens have not lapsed at the time of levy, at the address listed in the judgment lien certificate or other recorded liens, or, if amended, in any amendment thereto. **(List by name and address; include yours) #5a**
 - xix. All secured creditors who have filed financing statements as provided in part V of chapter 679 in the name of the judgment debtor **reflecting a security interest in property of the kind to be sold** at the execution sale at the address listed in the financing statement, or, if amended, in any amendment to the financing statement. **(List by name and address) #5b**
 - xx. Each other party holding a mortgage or other lien (recorded mortgage(s), financing statement, tax warrant, or other lien other than a judgment lien) against the real property as disclosed by the affidavit. **(List by name and address) #5c**
 - xxi. All other property owner(s), if not included as a debtor **(List by name and address)**
 - xxii. And any other individuals and addresses pursuant to statute. **(List by name and address)**
- h. Order of Payment Statement** per Florida Statute 56.27(1) include the following statement:
- I understand unless a Directed Court Order to the Sheriff is received prior to the Sheriff's Sale, all monies received through levy or sale will be paid as prescribed in Florida Statutes 56.27(1); to the Sheriff for costs; the Levying Creditor in the amount of \$500.00 as liquidated expenses; and the priority lienholder(s) under Florida Statutes 55.10(1) and (2), Florida Statutes 55.202, 55.204(3); or Florida Statutes 55.208(2), as set forth in this Affidavit required by subsection (4), or his or her attorney, in satisfaction of the judgment lien(s), if the judgment lien(s) have not lapsed at time of levy. If the name of more than one attorney appears in the court file, I have provided to the Sheriff, the name and the address of either the attorney who originally commenced the action or who made the original defense, unless the file show another attorney has been substituted.
- i. Surplus of Money from Sale** - Florida Statute 56.27(2)(b), include the following statement:
- Pursuant to Florida Statute 56.27(2)(b), if the affidavit discloses that the property is also subject to any recorded mortgage, financing statement, tax warrant, or other lien, other than a judgment lien, which is junior in priority to the levying creditors judgment lien, any surplus from the sale of the property shall be paid over to the registry of the court which the execution issued for further proceedings to determine the priority in which such surplus shall be distributed among judgment lien holders, other liens, and the owner of the property sold.
- j. Wrongful Levy Statement** per Florida Statute 56.27(5), include the following statement:
- I understand pursuant to 56.27(5), Florida Statutes, a Sheriff paying money received under an Execution in accordance with the information contained in this affidavit is not liable to anyone for damages arising from a wrongful levy.

k. Levy in Process Statement per Florida Statute 56.27 include one of the following statements:
I do **NOT** have any other levy in process, and I believe in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

≈ **or** ≈

I **DO** have another levy is in process and I believe in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

l. Exempting Real Property - Florida Statute 222.01, include the following statement:

I have made an inquiry of the Public Records of the Clerk of the Circuit Court of Duval County, Florida, and found **NO** claim filed by the named Judgment Debtor (Debtor)(s) or any other person exempting the described real property from forced sale pursuant to Florida Statutes 222.01.

m. Include Page Numbers -

Format page number such as "1 of 2", "2 of 2" etc...

n. Creditors Affidavit Signed/Notarized:

In addition to the affidavit being notarized, it shall be signed and dated by the Attorney of Record or the Levying Creditor. Do not utilize the symbol /s/ for a signature.

6. Final Judgment:

Provide a copy of the final judgment(s).

7. Fee's and Cost Deposit:

- a. Provide a check written out to **Jacksonville Sheriff's Office** in the amount determined by the Enforceable Writs Officer for the cost deposit.
- b. Please call ahead of sending the packet to the Sheriff's Office so the Enforceable Writs Officer can advise you on what the cost deposit may be. In real property cases the cost deposit is dependent on the size of the advertisement.

8. Point of Contact:

Provide a point of contact letter with a stamped self-addressed envelope or an email address and indicate you would like an electronic copy of the return of service.

If you have questions, please contact the Enforceable Writs Officers @ 904.255.2480 prior to sending the packet to the Sheriff.

Writ of Replevin Requirements

- 1. Writ of Replevin per Florida Statute 30.231(3) provide one of the following formats of the writ:**
 - a. **Original**
 - b. **Certified copy** or
 - c. **Electronic copy** (e-filed number on the writ)

- 2. Copies for Service pursuant to Florida Statute 30.231**
 - a. Plaintiff will provide sufficient copies for service for each defendant listed.
 - i. The provided copies will in turn be stamped by the Sheriff with a “True Copy” stamp and will be served to the defendant(s).

- 3. Property Described Statement pursuant to Florida Statute 30.30(1)(a):**
 - a. If the property does not have a VIN or serial number listed in the body of the writ of replevin, then provide the Sheriff with levy instructions.
 - b. If the property being levied is a storage shed, please provide the Sheriff with levy instructions.

- 4. Levy Instructions (if the VIN or serial number is not listed in the body of the writ):**
 - a. **Plaintiff’s Agent:**
 - i. Provide the Sheriff with the name and phone number of your designated “Plaintiffs Agent”
 1. Plaintiffs Agent is the individual that will respond to the scene and if required to identify “point out” the property to be replevied to the Sheriff.
 2. Plaintiffs Agent will also be the individual that the Sheriff will “turn over possession” of the property to.
 3. Plaintiffs Agent is responsible for making arrangements for the property to be moved including any vehicles necessary to move the property.
 - ii. If there is any property that blocks access to obtaining the property to be replevied, the Plaintiff is responsible for replacing any property moved, adjusted, taken down et cetera

to return the property back to its original location/condition.

- iii. The Sheriff does not make arrangements, nor does the Sheriff provide any personnel/vehicles for moving.

b. Property Location Statement (Per Florida Statute 30.321(3)):

- i. Provide the address or addresses where the personal property can be located

c. Property Specifically Described:

- i. Make:
- ii. Model:
- iii. Color:
- iv. Year:
- v. Any other descriptions that will aid the Sheriff in obtaining the property.

d. Harmless Statement (Per Florida Statute 30.30):

It is expressly understood and agreed that you as Sheriff of Duval County, Florida, and your agents, pursuant to Florida Statutes 30.30, in attempting to execute any Writ or when acting upon the above instructions, shall be held blameless in making a wrongful levy, and further be held blameless against any liability for loss or damages that might be sustained by anyone whosoever by reason of levying upon the above described property and further indemnify the Sheriff for any cost or other expenses, including reasonable attorney's fees, and should the property for any reason not be sold, including but not limited to the defendant filing bankruptcy, or if upon sale should not produce sufficient money to pay said costs and fees.

e. Cost Deposit Statement (Per Florida Statute 30.231(2)):

Enclosed herewith is \$_____ advance deposit to cover the costs incident to this levy. In the event that any property seized by the Sheriff of Duval County is to remain in the same location where seizure was affected, then in that event, the plaintiff shall be required to maintain with the Sheriff a cost deposit sufficient to pay any and all costs including, but not limited to, Sheriff's fees, advertising costs, storage charges and rents as the same may become due and owing. It is expressly understood and agreed that any storage charges or payments for rent shall be paid by the Sheriff from said cost deposit at the time such payments become due. Plaintiff further guarantees to pay all costs, including reasonable attorney's fees, and should the property for any reason not be sold, including but not limited to defendant filing bankruptcy, or is upon sale should not produce sufficient money to pay said costs and fees above the amount of above deposit for those expenses that may be incurred in making this levy and will tender these additional funds at the time it becomes necessary for the Sheriff to make payment on the cost incurred.

f. Include page numbers in the format of "1 of 2", "2 of 2" and et cetera.

- g. Levy instructions have to be dated and signed by the Judgment Creditor or Judgment Creditor's Attorney.
 - i. Do not utilize the symbol /s/ for a signature.

5. Plaintiff's Cover Letter include a letter containing the following if the property is a vehicle, vessel, et cetera:

- a. **Wrecker Service Statement:** include the name of a local Duval county wrecker service and the wrecker service's local contact phone number.

Note: The Sheriff does not make appointments or schedule times with your wrecker service of choice when the officer will be attempting to serve the writ. The wrecker service will have to be able to respond to the scene within 20 minutes and if not, then the Sheriff will have to utilize a tow company from the approved Sheriff's Tow List (assigned by another Sheriff Employee and not the officer recovering the property).

- b. **Utilize Sheriff's TOL (Tow List) Statement:**

- ii. Include the following statement: "If our wrecker of choice or plaintiff's agent is unable to arrive on scene or the Sheriff is unable to make contact with our wrecker/plaintiff's agent please utilize your assigned tow companies."

- c. **Property Location** pursuant to Florida Statute 30.231(3):

- iii. Provide all addresses of where the property to be replevied can be located

- d. **Demand & Harmless Statements:**

- iv. Include the following demand statement: "Please make demand for the listed property in the Writ of Replevin and the Sheriff will be held harmless in the event of a wrongful levy."

- e. **Point of Contact Statement:** A point of contact with telephone number that the Sheriff is able to make contact with if the replevin is in regards to any property other than a vehicle/vessel that requires towing.

- v. **Example:** Trailer (mobile home), personal property, animals, furniture and etc etcera.

6. Copy of Return of Service:

- a. Provide a stamped self-addressed envelope if you would like a copy of the Return of Service or an email address and indicate you would rather have an electronic copy of the Return of Service.

7. Service Fee's pursuant to Florida Statute 30.231(1):

- a. Sheriff's fee of \$90.00 is required to replevy personal property and to serve a defendant. With a Writ of Replevin.

- b. If a summons is to be served, then the fee is \$40.00.
- c. Each additional summons is an additional \$40.00 fee.

Note: Do not forget to include with the summons the complaint (petition) when you are requesting a summons to be served with a prejudgment writ of replevin.

8. Break Order:

- a. If you include a separate Break order, ensure it has been “certified.”
 - vi. Certified means it will be signed and have the stamp of the Clerk of Court.
- b. **Break Order Fee:**
 - vii. If the writ of replevin is accompanied with a separate certified Break Order, an additional separate check of \$200.00 is required.
 - viii. The fee for the Break Order cannot be combined with the other fee(s) on the same check.

9. Cost Deposit:

- a. Large inventory replevins will require a reasonable cost deposit to cover stand by time, manpower, et cetera... the cost deposit will be determined by the Enforceable Writs officer.
- b. If you have Levy Instructions include the cost deposit statement and cost deposit amount on the Levy Instructions.

If you have questions about the possible cost deposit requirements, please contact the Enforceable Writs Officers @ 904.255.2480 prior to sending the packet to the Sheriff.