

INSTRUCTIONS FOR FILING A DECLARATORY JUDGMENT

IMPORTANT – PLEASE READ

IF NOT PROPERLY COMPLETED AND PARTIES ARE NOT PROPERLY SERVED, YOUR CASE MAY BE DISMISSED OR YOU MAY NOT OBTAIN YOUR FINAL JUDGMENT.

A Declaratory Judgment establishes the rights and other legal relations of the parties without providing for enforcement. For example, if you purchased a vehicle or boat and cannot obtain the Certificate of Title from the previous owner, you would need to obtain a judgment declaring your ownership.

NOTE: Be sure to clearly PRINT your name and the Defendant(s) name in the Caption (top) of all of the enclosed documents. Also, be sure the case number is written in the caption.

REQUIREMENTS TO FILE A CASE: You must be at least 18 years of age. You may be an individual, a person Doing Business As (d/b/a) or a corporation. A minor child must have a parent or legal guardian file on their behalf.

VENUE: Venue is in the County where the property is located.

JURISDICTION: This action must be brought in the court of competent jurisdiction based on the value of the property. Your claim amount is based on the value of the property. If the amount of your claim is for less than \$50,000, then jurisdiction is in County Civil Court.

THIS PACKET IS NOT TO BE USED IF THE AMOUNT OF YOUR CLAIM IS OVER \$50,000, WHICH MUST BE FILED IN CIRCUIT COURT. THIS PACKET IS TO ONLY BE PREPARED FOR COUNTY COURT MATTERS.

PROPER NAME AND ADDRESS OF DEFENDANT(S): Before filing your claim, you should make **sure** you have the proper name(s) and address(s) of the party(s) you want to sue.

- If you are suing an individual, and if the spouse will be included in the suit, obtain the proper name and street address of the spouse. First names must be used and any alias names, if known. **Avoid using “Mr. and Mrs.”**
- If you are suing a corporation, you must know the correct name of the corporation and the state in which it is incorporated. Obtain the name and address of an officer of the corporation: the president, vice president, etc.; or in the absence of any of these, the name and address of the business agent residing in this state; or the name of the resident agent transacting business for the corporation in this state. To find this information, you may write or call: SECRETARY OF STATE OF FLORIDA, Attn: Corporate Division, Tallahassee, Fl. 32304, (850) 488-9000, or locate them on the internet at <http://www.sunbiz.org>. This information is needed for service on the corporation.
- If you are suing a partnership, you will need to obtain the names and addresses of **all** of the partners. Many individuals, partnerships, and corporations do business under a fictitious name, such as: Jim Jones d/b/a Jim Jones, Joe Black, a partnership, d/b/a Jones & Black Construction; or XYZ, Incorporated, A Florida Corporation, d/b/a Chicken Shack. You cannot sue a fictitious name because it is not an entity. You have the burden of investigating to determine whether individuals, partnerships, or a corporation are doing business under a fictitious name. This information may be determined by calling the Secretary of State, Division of Corporations, the Occupational License Section of the Tax Collector’s Office, or the licensing department of the City or County where the principal place of business is located.

FILING YOUR CASE: Using black or blue ink, please complete the enclosed **CIVIL COVER SHEET, NOTICE OF PERMANENT MAILING ADDRESS and STATE OF RESPONSIBILITY** forms and file them with the Clerk of Court. A filing fee of **\$300.00** must be paid to the Clerk of Court. The Clerk can accept cash, personal or business checks, cashier checks or money orders.

Please complete the **COMPLAINT FOR DECLARATORY JUDGMENT** enclosed in this packet and sign it in the presence of a Deputy Clerk or Notary Public. Be sure to attach any additional explanations, if necessary. **You will need to fully explain to the Court how you obtained ownership and possession of the property. Be specific. You will also need to explain to the Court the reason you are entitled to ownership. Your explanation of the reason you are entitled to ownership of the property must be CLEAR AND CONVINCING.** If your complaint is based on an instrument of writing such as a Bill of Sale, it will be necessary for you to furnish a copy of such instrument for attachment as an exhibit.

The Defendant(s) will need Service of Process to be served by means of a summons and a copy of the Complaint and all accompanying documents, if any, by a Deputy Sheriff. See **INSTRUCTIONS FOR SUMMONS: PERSONAL SERVICE ON AN INDIVIDUAL** enclosed in this packet. The Defendant(s) will have twenty (20) days from date of service of the Summons in which to file an Answer to the complaint. The summons, included in this packet, must be executed by the Clerk or a Deputy Clerk. The cost for the summons is **\$10.00** per Defendant. If the whereabouts of the Defendant(s) are unknown, you may use Constructive Service provided you make an actual, diligent search to discover the location of, and provide notice to, the Defendant(s). See **INSTRUCTIONS FOR CONSTRUCTIVE SERVICE** enclosed in this packet.

If the Defendant(s), after having Service of Process by either Summons or Constructive Service, has not responded to the complaint, you may file the **MOTION FOR DEFAULT** and **DEFAULT** included within this packet with the Clerk of Court.

In addition, please complete and file the **MOTION FOR HEARING** enclosed in this Packet, and provide the Court with stamped envelopes addressed to you and the Defendant for mailing of Order Scheduling Hearing. The Court will set a hearing, which you will need to attend in order to obtain your final judgment.

*****NOTICE*****

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