

LEVY ON REAL PROPERTY:

1. ORIGINAL SIGNED EXECUTION in compliance with F.S.S. and Fla. R. Civ. P. 1.914.
2. ORIGINAL OR COURT CERTIFIED COPY of the Final Judgment recorded in Monroe County.
3. JUDGMENT LIEN CERTIFICATE and the certification page issued by the State of Florida. You may go to www.sunbiz.org for further information on obtaining these pages.
4. INSTRUCTIONS FOR LEVY specifically describing the real property to be levied upon. Legal Description of the property as reflected on the deed, NOT the tax rolls, and the physical address. The Instructions for Levy shall state the balance due on the writ and indicate the aggregate amount of prior payments made on the judgment. Instructions for Levy shall state the balance due on the writ and whether any payments have been made on the judgment. **The Instructions for Levy on Real Property must be written using the following structure and wording as follows: Note: On levy of real property, mobile or modular home or any other residence: I, the plaintiff(s), counsel for the plaintiff(s), or agent(s), have made an inquiry of the records of the Circuit County, Monroe County, Florida, and have found NO Affidavit of Designation of Homestead on the Described real property as allowed in F.S.S. 222.01. Also, the defendant, _____ is sole owner. A certified copy of the Final Judgment in the above styled case was recorded in OR Book _____, Page _____, of the Public Records of Monroe County, Florida, on the _____ day of _____, ____.**
5. COPY OF WARRANTY DEED or Quick Claim Deed showing ownership **AND RECENT TITLE SEARCH.**
6. Affidavit from plaintiff/moving party or his/her attorney as proved for real property levy under F.S.S. Section 56.27 (4)(A)(B)(C).
7. Affidavit that you checked the Property Appraiser and property to be levied from is exempt or not protected from forced sale by homestead. (This does not refer to the homestead exemption for property tax, it refers to homestead protection from forced sale- these are separate and distinct designations with different meanings.)
8. SUFFICIENT COST DEPOSIT to cover all costs and fees from levy upon property through sale and conclusion of the levy. This amount varies depending upon the property levied – **please call for the cost deposit required for your particular case.**
9. ADDRESS OF ALL PARTIES, including plaintiff(s), counsel for the plaintiff(s), defendant (s), and counsel for the defendant(s).
10. Assignment of Judgment – Affidavit of Assignment of Judgment, must include all assignees in the chain from plaintiff to present assignee.
11. Affidavit of Identity, in the event of variance in names on the various documents. The identity of the defendant must be verified by information such as date of birth, social security number, etc.
12. Information concerning the judgment and property levy must be consistent through all documents. Variations must be corrected.

After the sale, the plaintiff/plaintiff's attorney will be given a full accounting of all expenditures.

For more information applicable to your specific case, contact the Civil Division at 305-809-3041.

DISCLAIMER: THE SHERIFF'S OFFICE CANNOT GIVE ANY LEGAL ADVICE. THIS INFORMATION IS NOT TO BE CONSIDERED LEGAL ADVICE. YOU NEED TO CONTACT AN ATTORNEY FOR ANY LEGAL ADVICE YOU NEED IN THE PREPARATION OF DOCUMENTS FOR SHERIFF'S LEVY AND SALE OF REAL OR PERSONAL PROPERTY.

Plaintiff(s)/Creditor(s)
vs.
Defendant(s)/Debtor(s)

Court/County
Case No.

AFFIDAVIT PURSUANT TO F.S.S. 56.27 (4)(A)(B) AND (C) FOR REAL PROPERTY

I, as Attorney of Record for the Levying Creditor (Plaintiff), or as the Levying Creditor (Plaintiff), have herein set forth all of the following as to the Judgment Debtor (Defendant/s):

- (A) That in accordance with F.S.S. 55.10(1) AND (2), I have reviewed the Official Records of the _____ County Clerk of Court, Recording Department, or, I have performed or reviewed a title search on the real property described in the sheriff's Instructions for Levy, and that 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 .
- (B) That I have provided to the sheriff for each judgment lien found recorded on the real property, the information contained in the certified copy of recordation of lien under F.S.S. 55.10(1) and (2), and for each other lien found recorded on the real property the name and address of the lienholder(s), as shown in the copy of the recorded lien(s) disclosed by the title search.
- (C) **List all** Judgment Lien(s) and OTHER LIEN(S) found recorded in their order of "Priority" by:
 - a. Case Style
 - b. Case Number
 - c. Assigned reference number (or Book/Page number)
 - d. Recordation date
 - e. Judgment date
 - f. Judgment amount
 - g. Interest rate
 - h. If the review or title search of the court records revealed no other liens except the lien for this action, a statement attesting to that effect must be included in the affidavit.

****Remember that your judgment lien must also be listed. List all required information in the affidavit.*

- (D) A statement that the levying creditor either does not have any other levy in process, or if another levy is in process, they levying creditor believes in good faith that the total of the property under execution does not exceed the amount of outstanding judgments.
- (E) That I understand it is the responsibility of the sheriff to furnish certified mailing of NOTICE to all judgment creditors and other lienholders who have acquired a lien as provided in F.S.S. 55.10(1) and (2), or F.S.S. 695.01, and I have provided to the sheriff said names and addresses required by F.S.S. 56.21, including:
 - a. Attorney of Record of Judgment Debtor (Defendant/s), and if debtor has no attorney, then a statement attesting to that effect is included in the affidavit;
 - b. Judgment Debtor (Defendant/s) last known address;

- c. Attorney of Record for all Judgment Creditors and other lienholders as listed in the judgment lien, or other recorded liens, or in any amendment thereto;
 - d. All Judgment Creditors and Other Lienholders who do not have an attorney of record, as listed in the judgment lien or other recorded liens, or in any amendment thereto;
 - e. Property Owner of Record;
 - f. Each Other Person holding a Mortgage or Other Lien against the real property as disclosed by this affidavit.
- (F) That, on levy of Real Property, Mobile or Modular Home or any other residence, I have made an inquiry of the Public Records of the Clerk of the Circuit Court of _____ County, Florida, and found no claim filed by the named Judgment Debtor (Defendant/s) exempting the described real property from forced sale pursuant to F.S.S. 222.01;
- (G) That I understand unless a directed court order to the sheriff is received prior to the day of sheriff's sale, all monies received through levy or sale will be paid as prescribed in F.S.S. 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 F.S.S. 55.10(1) and (2), as set forth in this Affidavit required of the plaintiff/creditor or his or her attorney, in satisfaction of the judgment lien(s), if the judgment lien(s) has (have) not lapsed at the time of levy. AND, that if the name of more than one attorney appears in the court file, I have provided to the sheriff the name and address of either the attorney who originally commenced the action or who made the original defense, unless the file shows another attorney has been substituted.
- (H) That pursuant to F.S.S. 56.27 (2)(b), if the affidavit required by subsection (4) 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 creditor's judgment lien, any surplus from the sale of the property shall be paid over to the registry of the court from which the execution issued for further proceedings to determine the priority in which such surplus shall be distributed among judgment lienholders, other lienholders, and the owner of the property sold.

I further understand pursuant to F.S.S. 56.27(5), a sheriff paying money received under an Execution in accordance with the information contained in the AFFIDAVIT under subsection (4), is not liable to anyone for damages arising from a wrongful levy. The receipt of the attorney shall be a release of the officer paying the money to him or her.

Date: _____

 Affiant's Signature
 Name and Address

(Notary Information and name of document preparer.)

***** NOTE: Affidavit will not be accepted by Sheriff unless signed by the Attorney of Record for the Levying Creditor (Plaintiff), or Levying Creditor (Plaintiff) and duly notarized. The levying creditor or Attorney for levying creditor SHALL deliver to the sheriff this affidavit at the time of the levy request.*

_____ Court _____ County, Florida

Case: _____

Plaintiff

Vs.

Defendant

INSTRUCTIONS FOR LEVY
(REAL PROPERTY)

The Sheriff of Monroe County
5525 College Rd.,
Key West, FL 33040

Date:

Dear Sir,

In the matter of Writ of Execution issued by _____ Court, _____ County, Florida in the above styled case, you are instructed to levy upon the following described real or personal property of the Defendant. Disclosure of the balance due on the writ as follows: \$ _____, plus interest from (DATE) _____. (F.S. 30.30 as amended).

Note: On levy of real property, mobile or modular home or any other residence: I, the plaintiff(s), counsel for the plaintiff(s), or agent(s), have made an inquiry of the records of the Circuit County, Monroe County, Florida, and have found NO Affidavit of Designation of Homestead on the Described real property as allowed in F.S.S. 222.01. Also, the defendant, ___ is sole owner. A certified copy of the Final Judgment in the above styled case was recorded in OR Book ___, Page ___, of the Public Records of Monroe County, Florida, on the ___ day of ___, ___.

Description of Property

It is understood that you as Sheriff of Monroe County, Florida, are hereby held harmless by the undersigned against liability for any loss or damage whatsoever that might be sustained by anyone whomsoever by reason of your leaving upon the above described property, and that you shall be indemnified or held blameless by the undersigned for any expense incurred by reason of claim made against you while acting in accordance with these instructions.

It is further understood and agreed that I shall pay all costs incident to this levy should the property levied upon, for any reason be not sold, including bankruptcy procedures, or if upon sale should not produce sufficient money to paid said costs, unless the costs shall have been paid by the Defendant.

Signature of Plaintiff, or
Plaintiff Attorney or Agent

NOTE: Section 30.30 (3) of the Florida Statutes provides that if the Sheriff is requested to levy on property not specifically described in a writ or if a third party claims an interest in specified property, he may require the Plaintiff to furnish a bond payable to the Sheriff. The bond is conditioned to hold the Sheriff harmless against liability for any loss or damage that might be sustained by anyone reason of the levy and indemnifying him for any expense incurred.