



How to Apply For a Writ of Possession (Order to Remove an Illegal Occupier From Your Property)

Superior Court of New Jersey - Law Division, Special Civil Part

Who Should Use This Packet?

You may use this packet if you are the owner or proper legal resident of real property and you are being denied the rightful uninterrupted use of the property by person(s) who never had or no longer has permission to remain in the subject premises **AND** a landlord/tenant relationship **DOES NOT** exist between you and the person(s) you are seeking to remove.

Before you complete and file this application, you must first determine whether you qualify for this type of legal relief. Review the “Writ of Possession Action vs. Landlord/Tenant Action” questionnaire attached to this packet. If your particular circumstances require a “NO” answer to all of the questions posed, then a Writ of Possession is most likely the appropriate relief.

Note:

1. You should **not** use this packet if you are involved in a pending Landlord/Tenant case or if there is a domestic violence action pending between you and the person(s) you are seeking to remove.
2. If your request is ultimately granted by the Court, the Sheriff’s Department in the county where you file this application will be responsible for removing the person(s) from the subject premises. The Order for Possession will permit you to obtain a Writ of Possession from the Court after you pay the applicable fee. You must then take the Writ of Possession to the local Sheriff’s Department and pay them their applicable fee for serving and executing this Writ of Possession.
3. The Sheriff’s Department is not responsible for changing the locks on the subject premises once the person(s) has been removed. If you decide to change the locks, you should also remember to comply with the terms of your lease agreement, if any, with the landlord/owner.
4. Once the Sheriff’s Department successfully removes the person(s) from the subject premises pursuant to the Writ of Possession, if the person(s) reenters the premises, you should contact the police in the municipality where the residence is located for assistance with removing the person(s).

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The instructions and **forms** will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the forms will be available on the Judiciary’s Internet site, njcourts.gov. However, you are ultimately responsible for the content of your court papers.

Writ of Possession Action vs. Landlord/Tenant or Family Action Questionnaire

Writ of Possession actions are typically brought against a person(s) who improperly occupies property that belongs to another, that is being properly rented by another or including property that belongs to a decedent's estate wherein the person refuses to leave after the owner dies. The occupier may have originally been granted permission to occupy the premises temporarily by the owner/landlord, tenant or by the decedent during his/her life, but permission is subsequently rescinded, and that person(s) refuses to leave or move out.

Below is a list of questions designed to assist you in determining whether this Writ of Possession application is the right course of action.

1. Has there ever been a written or oral lease between you and the person(s) you are seeking to remove? Yes No
2. Have you ever accepted rent, cash or services in lieu of rent during the occupancy of the person(s) you are seeking to remove? Yes No
3. Is there a pending domestic violence complaint between you and the person(s) you are seeking to remove? Yes No
4. Is the person a sub-tenant, based upon a written/verbal lease, which allows subleasing? Yes No
5. Did you purchase the property from the party you are seeking to remove? Yes No

If you answered "No" to all of questions, then this Writ of Possession application may be the proper course of action for you. If you answered "Yes" to any of the questions, a Landlord/Tenant action may be a more appropriate course of action for you.

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The court system can be confusing and it is a good idea to get a lawyer if you can. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. The address and telephone number information can be found in your local yellow pages under Legal Aid or Legal Services.

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. Their address and telephone number information can also be found in your local yellow pages. Most county bar associations have a lawyer referral service. The county bar lawyer referral service can supply you with the names of attorneys in your area willing to handle your particular type of case and who may sometimes consult with you at a reduced fee.

There are also a variety of organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Attached to this packet is the information needed to contact these referral services.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help, or attention from the court. You must still comply with the Rules of the Court, even if you are not familiar with them. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.

- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Definitions of Words Used in This Packet

Answer - An *answer* is a written response which explains why you believe you do not owe the money to the other party in the case.

Certification - A *certification* is a written statement made to the court swearing that the information contained in the documents filed with the court is true to the best of your knowledge.

Contact Information Sheet - A *contact information sheet* contains the address and/or telephone numbers for your county's legal services, lawyer referral services and Special Civil Part Clerk's Offices.

Defendant - The *defendant* is the person being sued.

Order - An *order* is a written or oral command by a court directing or forbidding an act.

Order to Show Cause - An *Order to Show Cause* is an emergency order made upon the motion of one party, requiring another party to appear in court and demonstrate why certain conduct should be permitted or not permitted.

Personal Identifiers - *personal identifiers* are a party's social security number, driver's license number, vehicle plate number, insurance policy number, active financial account number or credit card number.

Plaintiff (Tenant/Owner) - The *plaintiff (tenant owner)* is the person who starts the writ of possession lawsuit and who is legally entitled to uninterrupted possession.

Relief - *Relief* is what you are asking the court to do or what the court commands.

Sheriff Officer - A *Sheriff Officer* is a law enforcement official who serves and enforces the Writ of Possession.

Treble Damages - *Treble damages* is the amount of money awarded to a party, tripled by the court when allowed by law.

Verified Complaint - A *verified complaint* is a sworn document in which you tell the court the facts of your case and state what relief you want from the court.

Writ of Possession - A *Writ of Possession* is an order by the court which directs the physical removal of the defendant(s), at the request of the plaintiff, by a Sheriff Officer.

Instructions

If a person(s) is occupying your premises, without your permission, and there is no pending domestic violence complaint and no landlord/tenant relationship that exists between you and the person(s) you want the Court to remove, you must fill out the following documents:

Form A – Order to Show Cause: Fill out party names only.

Form B - Verified Complaint: Fill in all of the blank spaces, except for the docket number, and sign at the bottom of the page.

Form C – Proposed Order for Possession: To be completed by Judge at the hearing on the return date scheduled in the Order to Show Cause, and

Form D – Certification (Proof) of Service upon the Defendant: File with the Court immediately after proper service upon the defendant(s).

Form E - Writ of Possession: If the defendant does not leave voluntarily, this form will be processed by Court staff after a Judge signs the order (Form D) and upon payment of the applicable writ of possession fee.

Be Sure to Note the Following:

- All of the papers must be signed and returned to the Special Civil Part Office. You should contact the Special Civil Part Office for the correct filing fee.
- If you are seeking an award of damages, in addition to having the defendant(s) removed from the premises, you may use this form, provided that the total damages you claim do not exceed the jurisdictional limitation of the Special Civil Part Court (\$15,000).
- If the judge signs the Order to Show Cause (**Form A**), you must immediately serve upon the Defendant(s) or the Defendant's attorney (if known), the signed order, attached contact information sheet and a copy of all the documents (**Forms A, B and C**):
 1. by regular and certified mail (return receipt requested) to the defendant(s); **OR**
 2. by personally delivering to the defendant(s); **OR**
 3. by regular mail upon the defendant's attorney (if known).

You must file the proof of your service (**Form D**) with the Court once defendant(s) are served *prior* to the return date (hearing date). Keep the return receipt (green card), if any, and a copy of your **Form D**, as proof of your service upon the Defendant(s).

Note:

If the judge has ordered that you appear in court for a hearing, concerning the issues in this case, you must appear at that time, or the court may dismiss your verified complaint and not grant you the relief that you requested. The Order to Show Cause will explain the service requirements and the time frame for serving the defendants with a copy of these forms.

Form A

Plaintiff's Information:

Name _____

Address _____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part

_____ County

Docket Number: _____

_____,
Plaintiff(s),

v.

_____,
Defendant(s).

Civil Action

**Order to Show Cause for
Writ of Possession
Summary Action**

THIS MATTER having been brought before the court by _____, Plaintiff, seeking relief by way of summary action pursuant to *R. 4:67-1(a)*, *R. 6:1-2(a)(4)* and *N.J.S.A. 2A:39-6* based upon the facts set forth in the verified complaint filed herewith and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to *R. 4:67-1(a)* and *R. 6:1-2(a)(4)* and for good cause shown:

It is on this ____ day of _____, 20____, **ORDERED** that the defendant(s) appear and show cause before the undersigned Judge on the ____ day of _____, 20____, before the Superior Court at _____, New Jersey at ____ am/pm or as soon thereafter as the parties can be heard, why judgment should not be entered:

1. Permitting the issuance of an Order for Possession; and/or
2. Awarding damages to the plaintiff; and/or
3. Granting such other relief as the Court deems equitable and just.

And it is further **ORDERED THAT:**

1. A copy of this order to show cause, verified complaint, and all supporting affidavits or certifications submitted in support of this application be served by the plaintiff upon the defendant(s) personally within ____ days of the date hereof; or if such service cannot be personally made, plaintiff shall either serve the defendant(s) by regular and certified mail or by regular mail upon the defendant's attorney, if known, within ____ days of the date hereof in accordance with *R. 4:4-4* and *R. 6:2-3(a)*, this being original process.

Form A

2. The plaintiff must file with the Court his/her proof of service of these pleadings upon the defendant(s) no later than ___ days before the scheduled hearing or return date scheduled by this Court.
3. The defendant may file and serve the plaintiff with an answering affidavit or motion returnable on the hearing date scheduled by this Court and shall appear in response to this order to show cause. Any documents filed by the defendant must be filed with the Office of the Special Civil Part in the county listed above and a copy must be sent to the plaintiff, if the plaintiff has no attorney, or plaintiff's attorney named above. A telephone call will not protect the defendant's rights, defendant(s) must appear in Court at the designated date and time scheduled by this Court.
4. Defendant(s) take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit and relief sought. If you dispute this complaint then you may submit, before the scheduled hearing date to this order to show cause, an answering affidavit or motion returnable on the hearing date and proof of its service. You must also appear on the hearing date set forth above to answer this complaint.
5. If you wish to hire an attorney and cannot afford one, you may call the Legal Services offices in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJLAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Case Management Office in the county listed above and online at njcourts.gov.

J.S.C.

Form B

Plaintiff's Name & Address

Telephone Number _____

vs.

Defendants Name & Address

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County

Docket Number: _____

Civil Action

**Verified Complaint in Support of
Order to Show Cause**

I am the Plaintiff, and the owner or tenant of the premises located at:
_____, County of _____, State of New Jersey,
complaining of the defendant(s), as follows:

- 1. The defendant came to occupy the subject premises to the best of my knowledge under the following circumstances:

- 2. Plaintiff is entitled to uninterrupted possession of the premises and the defendant's(s') illegal actions have unlawfully prevented plaintiff access to the premises to which the plaintiff has a legal right thereto.

- 3. The harm that has occurred, as a result of the defendant(s) acts, include:

- 4. Plaintiff seeks an immediate judgment for unlawful detainer and for the right of possession, so that uninterrupted possession of the subject premises may be restored to the plaintiff, including costs of suit, and other relief as the Court may deem appropriate.

- 5. There is no landlord/tenant relationship that exists between the plaintiff and defendant(s).

- 6. There is no domestic violence order, current family court matter or order between the parties.

- 7. I notified the defendant(s), or the defendant(s)'s attorney, in writing demanding that the defendant(s) had to leave and/or deliver to me uninterrupted possession of the subject premises. (Explain how you notified the defendant and what they said in reply)

- 8. Plaintiff has been deprived of his/her property, in violation of *N.J.S.A. 2A:35-1, et seq.* and/or *N.J.S.A. 2A:39-1 et seq.*, and

Form B

WHEREFORE, the plaintiff demands judgment against the defendant(s):

- A. Requesting an Order for a Writ of Possession directing the county sheriff to remove the defendant(s) from the subject premises; and
- B. Awarding plaintiff damages, counsel fees and court costs pursuant to *N.J.S.A. 2A:35-1 et seq.* and/or *N.J.S.A. 2A:39-1 et seq.*; and
- C. Any other relief the Court deems appropriate and necessary.

Dated: _____

Signature of Attorney or *Pro Se*

Print Name

Verification

- 1. I am the plaintiff in the within action.
- 2. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the statements made herein by me are willfully false, I am subject to punishment.

Dated: _____

Signature of Plaintiff

Print Name

Rule 4:5-1 Certification: I certify that the matter in controversy is not the subject of any other action pending in any court or a pending arbitration proceeding, and no such action is contemplated. I know of no other parties that should be made part of this lawsuit. I recognize my continuing obligation to file and serve on all parties and the Court any amended certification, if there is a change in the facts stated in the original certification.

Rule 1:38-7 Certification: I certify that any of the defendant(s)' confidential identifiers have been redacted from the documents submitted to the Court and will be redacted from any documents submitted in the future, in accordance with *R. 1:38-7(b)*.

Dated: _____

Signature of Plaintiff

Print Name

FORM C

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County

Docket Number: _____

_____,
Plaintiff(s),

v.

_____,
Defendant(s).

Civil Action

Order for Possession

This matter having come before the Court by plaintiff seeking an Order for a Writ of Possession and/or other relief directing the county sheriff to remove the defendant(s) from the subject premises, pursuant to *N.J.S.A. 2A:35-1 et seq.*, *N.J.S.A. 2A:39-1 et seq.* and *R. 4:67-1*, permitted as summary actions by *N.J.S.A. 2A:39-6*, *R. 4:67-1* and *R. 6:1-2(a)(4)*, and the issue thereof having been heard and determined by the Court and having found that the plaintiff is entitled to the uninterrupted possession of the subject premises described herein, and for other good cause shown:

IT IS on this ____ day of _____, 20 ____, **ORDERED THAT:**

1. The plaintiff shall immediately recover from the defendant the possession of the described premises; and
2. The defendant(s) is/are hereby directed to vacate the described premises pursuant to *N.J.S.A. 2A:35-1* and *N.J.S.A. 2A:39-1 et seq.*; and
3. (If applicable) A judgment is awarded for plaintiff, and against the defendant, for the sum of \$_____, plus costs; and
4. (If applicable) Enforcement of this Order is stayed until _____, thereby allowing the defendant(s) time to vacate the described premises in an orderly manner; and
5. If the defendant(s) fail to vacate the premises on or before the date specified herein, the plaintiff may seek the issuance of a Writ of Possession from the Special Civil Part Office no more than ____ days thereafter, directing the County Sheriff to subsequently remove the defendant(s) within 14 days of the issuance of the Writ of Possession, upon payment of the applicable fee for same; and
6. A copy of this Order shall be served by the plaintiff upon all parties within ____ days hereof.

J.S.C.

FORM D

Plaintiff's Information:

Name _____

Address _____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part

_____ County

Docket Number: _____

_____,
Plaintiff(s),

v.

_____,
Defendant(s).

Civil Action

Certification/Proof of Service

I am the plaintiff in the above entitled action and I hereby certify as follows:

- 1. I hand delivered on _____, to each defendant named in this lawsuit, a copy of my Order to Show Cause, verified complaint, contact information sheet, supporting certification and any other documentation that I filed with the Court that I have used in support of this application.

_____ defendant _____ defendant
 _____ defendant _____ defendant

- 2. In the alternative, if I was unable to personally serve each defendant named in this lawsuit with a copy of my Order to Show Cause, verified complaint, contact information sheet, supporting certifications and any other documentation that I filed with the Court that I have used in support of this application, I hereby certify that I mailed a copy to each defendant, by regular and certified mail, return receipt requested, on _____, and I have saved my return receipt green card;

_____ defendant _____ defendant
 _____ defendant _____ defendant

- 3. In the alternative, if the defendant(s) are represented by an attorney, I hereby certify that I sent, by regular mail, a copy of my Order to Show Cause, verified complaint, supporting certifications and any other documentation that I filed with the Court that I have used in support of this application to that attorney, _____, Esq., on _____, at the following address:

I hereby certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I may be subject to punishment

Dated: _____

Plaintiff(s)

FORM E

Plaintiff's Information:

Name _____

Address _____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part

_____ County

Docket Number: _____

Plaintiff(s)

v.

Civil Action

Writ of Possession

Defendant(s)

Do Not Write Below This Line – For Court Use Only

THE STATE OF NEW JERSEY TO THE SHERRIFF OF _____ COUNTY:

Whereas on _____, 20____, by a certain judgment of the Superior Court of New Jersey, Law Division, Special Civil Part, _____ County, in a cause therein pending, wherein _____, is (are) the Plaintiff(s) recover the possession of the lands and premises, with appurtenances, described in the Complaint from the Defendant(s) which premises are located at:

Street Address

City

State

Zip Code

The possession of which the Defendant(s) have unlawfully deprived the Plaintiff(s), as appears to us of record.

Therefore, you are hereby commanded without delay, to restore Plaintiff(s) to possession of his/her/their property; and return this writ to the Office of the Special Civil Part within 14 days of its issuance.

WITNESS, the Honorable _____, Judge of the Superior Court at _____, this ____ day of _____, 20____.

Clerk of the Superior Court

Certification of Execution of Writ of Possession

I hereby certify that I executed this writ for possession as follows:

Date and Time Executed

Signature of Sherriff's Officer

Printed Name of Officer