

INSTRUCTIONS FOR REMOVAL OF UNAUTHORIZED PERSON(S)

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ This process is for the removal of an unauthorized person or persons under limited circumstances and it is not a substitution for an eviction (FED) action.
- ◆ The action must be filed by the owner or authorized agent of the residential premises.
- ◆ The action must be filed in the County where the residential premises is located.
- ◆ Before you file your action, you must answer “**YES**” to **ALL** of circumstances below to meet the appropriate requirements. If your answer is “NO” to any of the circumstances listed below you may wish to seek an eviction (FED), or other action.
 - Are you the owner of the residential premises or the authorized agent of the owner of the residential premises?
 - Is the residential premises vacant or uninhabited at the time that unauthorized persons have entered it and you are seeking to remove them?
 - Have the unauthorized persons entered and remained on the residential premises?
 - Have you demanded the unauthorized persons vacate the residential premises, but they have not done so?
 - Have you informed the unauthorized person or persons that you are going to court to request a temporary mandatory injunction?
- ◆ In addition to answering “YES” to the above questions, you must also answer, “**NO**” to **ALL** of the questions below to meet the appropriate requirements. If your answer is “YES” to any of the circumstances listed below then you may wish to seek an eviction (FED) or other action.
 - Is the unauthorized person or person(s) a relative of yourself or authorized agent of the residential premises? A relative includes a spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether related by whole or half blood or by adoption.
 - Have you or your authorized agent to the residential premises ever given permission for the unauthorized person or persons to enter and remain on the residential premises?
 - Have you or your authorized agent of the residential premises ever had a written or oral agreement with the unauthorized person or persons regarding the use of the residential premises?
 - Has the unauthorized person ever accepted money or anything of value from yourself or the authorized agent of the residential premises?
- ◆ A person who falsely swears on a motion filed with the county court pursuant to this action may be subject to sanctions under the Colorado Rules of County Court Civil Procedure, may be held in contempt of court, or may be prosecuted for perjury.
- ◆ For additional information, please review Colorado Revised Statute §13-40.1-101 et seq.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local Court’s ADA Coordinator.

COMMON TERMS

- ☒ Residential Premises: Means a dwelling unit, the structure of which the unit is a part, and any immediately surrounding property that is owned by or subject to the exclusive control of the same person as the dwelling unit itself.

- ⊗ Unauthorized Person: Means a person who occupies an uninhabited or vacant residential premises without any current or prior agreement or consent of the owner or an authorized agent of the owner, whether written or oral, concerning the use of the residential premises.
- ⊗ Complaint: Document officially commencing the process to remove an unauthorized person.
- ⊗ Plaintiff: The person(s) or company filing a Complaint.
- ⊗ Defendant: The person(s) or company that the case is filed against.
- ⊗ Service of Process: The official means by which the Defendant is notified that a lawsuit has been filed against him/her and provided a copy of the Summons and Complaint.
- ⊗ Default: If the Defendant does not appear at the time of the hearing or file an answer, the Court may enter “default” or “failure to appear/answer” which entitles the Plaintiff to all relief asked for in the complaint.
- ⊗ Return Date: The date that the Defendant must file his/her answer by and/or appear in Court, which is listed on the Summons.
- ⊗ Writ of Restitution: A legal order signed by the Court authorizing the Sheriff to remove the Defendant.

If you do not understand this information, please contact an attorney.

FEES

The filing fee is \$95.00.

To waive the fee, file *JDF 205 - Motion to Waive Fees* and a blank order form (JDF 206).

Other fees that a party to the case may encounter are as follows:

Answer Fee	\$80.00
Copy Fees	\$0.25 per page or \$0.50 if double-sided
Service Fees	Vary (not payable through or to the Court).

FORMS

Read these instructions carefully to determine what forms you may need.

<input type="checkbox"/> JDF 148	Complaint
<input type="checkbox"/> JDF 149	Summons
<input type="checkbox"/> JDF 150	Motion to Remove Unauthorized Person(s)
<input type="checkbox"/> JDF 151	Notice of Hearing
<input type="checkbox"/> JDF 152	Writ of Restitution

STEPS TO FILING YOUR CASE

Step 1: Complete Starting Forms

The caption area below needs to be completed on all forms filed. Keep a copy of each form for your own records and make a copy to provide to the other party.

Complaint in Removal of Unauthorized Person(s) (JDF 148)

- You are the Plaintiff and the person(s) and the unauthorized person(s) you are requesting to remove is/are the Defendant(s).
- Fill in all the blanks and complete all necessary information on the Complaint form.
- If you are filing against multiple Defendants in the same action, list all the Defendants.
- Make sure you have the appropriate number of copies of all documents for the Court and the Defendant(s).

Summons in Removal of Unauthorized Person(s) (JDF 149)

- Complete the upper portion (caption only) on the Summons.
- The Court will provide you with a case number, division, and courtroom when you file your case.
- The Clerk will complete the appropriate fields on the Summons with Court location, date, and time.
- Make sure you have the appropriate number of copies of all documents for the Court and the Defendant(s).

Motion for Order to Remove Unauthorized Person(s) (JDF 150)

- You are the Plaintiff and the person(s) and the unauthorized person(s) you are requesting to remove is/are the Defendant(s).
- Fill in all the blanks and complete all necessary information on the motion form.
- Make sure you have the appropriate number of copies of all documents for the Court and the defendant(s).

Notice of Hearing on Motion for Order to Remove Unauthorized Persons(s) (JDF 151)

- Complete the upper portion (caption only) on the notice form.
- The Clerk will complete the appropriate fields on the notice with court location, date, and time.
- Make sure you have the appropriate number of copies of all documents for the Court and the Defendant(s).

Writ of Restitution (JDF 152)

- Complete the upper portion (caption only) on the Writ.
- The Court will provide you with a case number, division, and courtroom when you file your case.
- The Judge will rule on the Writ, Injunction, and Order.
- Make sure you have the appropriate number of copies of all documents for the Court and the Defendant(s).

Step 2: File with the Court

- Provide the Court with the completed forms as described in Step 1 above.
- Pay the filing fee.

Step 3: Court date

This Court date is the date you will return to Court for a hearing to remove unauthorized person(s).

- The Clerk will complete the appropriate fields on the Summons (JDF 149) and Notice (JDF (151) with the Court location, date, and time.
- The Court date will be set for hearing as soon as practicable, but no later than the next court day or you may request a later date.

Step 4: Notify Defendant

The Summons, Complaint, Motion, and Notice of Hearing forms filed with the court must be served at least **24 hours** prior to the Court hearing. You may request a later court date if you feel you will be unable to serve the defendant within 24 hours. The documents must be served by personal service or by posting in a visible place upon the residential premises.

Personal Service:

Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older and not a party to the action and who knows the rules of service to serve the Defendant. There is a service fee that is payable to the Sheriff's Department or Private Process Server.

- Provide the process server with the Affidavit of Service (JDF 98) for each Defendant and two sets of the Summons, Complaint, Motion, and Notice of Hearing forms.
- The process server will return the original Summons to you with the Affidavit of Service completed.
- Each Defendant must be served at least 24 hours before the appearance date specified in the Summons and Notice.

Service by Posting:

- If you decide to provide service by posting, the Summons, Complaint, Motion, and Notice of Hearing forms must be posted in a visible place upon the residential premises at least 24 hours before the appearance date specified in the Summons and Notice.

Step 5: Service is Completed

Once the documents are served, complete the certificate of service. If served by personal service, provide the court with the return of service (JDF 98). In addition, enter the case number on the upper portion of the return of service so that the Court can match this document to the appropriate case when filed back with the Court. You are responsible for paying the service fees, if any.

FIRST APPEARANCE

It is important that you are on time or early for your Return Date and that you have all of your information with you. Please turn off your cell phone and respect all parties in the courtroom. The following may occur at the hearing:

- If the defendant disputes they are an unauthorized person, they may appear at the hearing and provide testimony and other evidence that they are not an unauthorized person. The court, in its discretion, may accept a written statement prior to the hearing in place of testimony from the defendant.
- If no person identified in the motion as an unauthorized person appears at the hearing, and no written statement is filed in opposition of the motion; the court may proceed to rule on the motion based on the contents of the motion and any additional testimony that you provide.
- After the court hears testimony or after considering the motion, the court will determine whether the defendant is an unauthorized person and the court may enter an order for a Temporary Mandatory Injunction and issue a Writ of Restitution.
- If the court enters an Order for Temporary Mandatory Injunction and issues a Writ of Restitution, you may deliver the order to the Sherriff having jurisdiction to enforce the order. No later than 24 hours after receipt of the Temporary Mandatory Injunction, a Sherriff, Undersheriff, or Deputy Sheriff shall remove the unauthorized person from the residential premises and order them to remain off the residential premises or be subject to criminal trespass.

- If your motion filed with the court includes a statement that the property has been altered or damaged or the Sherriff, Undersheriff, or Deputy Sheriff sees evidence that the property has been altered or damaged, the Sherriff, Undersheriff, or Deputy Sheriff shall collect personal information from the person or persons and provide that information to you.
- If the court determines that the defendant is not an unauthorized person, the court will deny the Motion for Temporary Mandatory Injunction.