

WRITS OF POSSESSION

WHAT IS A WRIT OF POSSESSION?



A writ of possession is a court order that tells the Sheriff to put you, everything you own, and everyone in your household out of the place where you live.

The Writ gives you 24 hours to move out. The 24 hour time period starts from the time the Writ of Possession is posted on your door. If you have not completely moved out by the time the Sheriff comes back, the Sheriff's crew will move you, your family and all your belongings from your home.

This is called "Execution of the Writ". The Sheriff's crew will move you out even if someone is sick, pregnant, or you have another good reason why you don't think you must leave your home.

CAN I FIND OUT EXACTLY WHEN THE SHERIFF WILL RETURN TO PUT ME OUT?



Sometimes the Sheriff's Department gets behind and does not return exactly 24 hours after posting the writ of possession. If you want to get an idea of when the Sheriff will return to move you out, call Sheriff Service's at 305-375-5100. Tell them that a Writ of Possession was served on you or posted on your door. Be prepared to give them your case number. You will then be given an **estimate** of when the Sheriff will return to put you out of your home.

WHAT CAN I DO TO STOP THE SHERIFF FROM PUTTING ME OUT OF MY HOME?

If you have a very strong reason why the Sheriff should not put you out of your home, you should consider filing a paper with the Court called, "Emergency Motion to Stay Writ of Possession". This is a request that the Judge stop the Sheriff from putting you out.



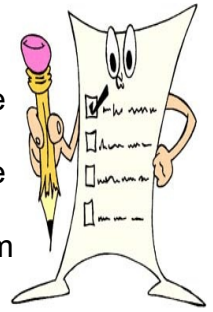
WHAT MUST BE IN THE EMERGENCY MOTION TO STAY WRIT OF POSSESSION?



The Emergency Motion must say four things: (1) the reasons you should not be put out by the Sheriff; (2) a request that the Judge to stop the Sheriff from putting you out; (3) a request that the Judge allow you to give you a hearing so you can tell the Judge in person why you should not be put out, and to present any evidence to support your request; and (4) that you faxed or hand delivered a copy of the Motion to the landlord or to the landlord's attorney.

The Emergency Motion to Stay Writ of Possession must give the reasons why the Sheriff should not put you out. Some reasons may be:

- ✓ You never received a copy of any of the eviction or lawsuit papers except for the Writ of Possession.
- ✓ You need extra time to move because someone who lives in the home is very sick or disabled.
- ✓ You paid the landlord what you thought you owed him, and therefore you thought you could stay in the home.
- ✓ You made an agreement with the landlord or his attorney to pay him what is owed, and to stay in the home.
- ✓ You did not pay any rent money into the Court Registry because the rental unit is in very bad condition.



HOW DO I FILE THE EMERGENCY MOTION TO STAY WRIT OF POSSESSION AND GET A HEARING?

As soon as the Writ of Possession is served on you or posted on your door you must file the Emergency Motion to Stay Writ of Possession, and also bring a copy of the motion to the Judge's chambers. The only person who can stop the Sheriff Department from putting you out of your place is the Judge who ordered that the Writ of Possession be issued.

File the Motion with the Clerk of the County Court at the Court where the case was filed. You must also hand-deliver a copy of the Motion to the Judge assigned to your case. If you do not know who the Judge is in your case or the Court, call Court Docketing at 305-275-1155. Give them your case number. They will tell you the Judge in your case and the Court where the case was filed.

You must also hand deliver or fax a copy of the Motion to the landlord or the landlord's attorney. You must write in the Motion that you gave a copy of the Motion to the landlord or to the landlord's attorney.

When you take the copy of the Motion to the Judge, ask the Judge's judicial assistant or the Clerk when you should contact the Judge to find out the Judge's decision about your Motion.

WHAT DO I DO IF THE JUDGE AGREES WITH ME AND GRANTS THE MOTION?



If the Motion is granted, ask the Clerk of the Court or the Judge's judicial assistant to fax a copy of the Judge's order granting your Motion to the Sheriff's department. This will stop the Sheriff from coming back and putting you out of your house.