

Civil Section

The Flagler County Sheriff's Office, Civil Section is charged with the statutory responsibility of serving and returning the judicial process and enforcing judgments and orders that originate from the Supreme Court, Circuit Courts, County Courts, and Board of County Commissioners, FSS 30.15. Each year, the Civil Process Section serves and executes more than 20,000 individual writs.

OUT OF STATE PROCESS

We serve all papers pursuant to Florida Statutes. We make our return on our computerized Return of Service form, and will not complete Out of State affidavits. We are not required by Florida to serve process by any other methods than what is stated by Florida Law. Please call if you have any questions regarding Out of State Service of Process, or our Return of Service.

Using Special Process Servers

The Sheriff of Flagler County does not appoint individuals to serve non-enforceable civil process

Writ of Possession (Landlord/Tenant or Foreclosure)

If a deputy sheriff is requested to standby for more than 1/2 hour, the request must be made in writing at the time the writ is presented for service, accompanied by the fee for the deputy(s) time. The fee is \$24.00 per hour, per deputy rounded up to the nearest hour. Our contract requires a minimum of 2 hours.

Writ of Execution and the Levy Process

The Sheriff has no authority to demand payment on judgments or liens. He is required by law to levy upon and sell specifically described property to satisfy the execution issued.

How the levy process works:

Once the Flagler County Sheriff's Office has received all required paperwork and your deposit, a deputy will be sent to take possession of the listed property. Once the property has been secured, we will prepare a Notice of Sheriff's Sale that will be advertised for 4 consecutive weeks in a local newspaper. Once the sale date arrived, a deputy will conduct the sale. The sale is a public auction to the highest bidder for **cash in hand**. No checks, money orders, or credit cards are accepted as payment. Should the highest bidder not have the cash in hand, the second highest bidder wins the bid at their bid price. Please note that there is no minimum bid.

The plaintiff or their representative has the opportunity to employ a credit bid at the sale. This means that you can bid up to the amount of your judgment, all accrued interest and levy costs to date, and the \$500.00 liquidation fee, without producing any money. If you are the highest bidder then the amount of your bid will be subtracted from the judgment. However, all costs will be deducted from your deposit. If you bid over the amount of the judgment then you will be responsible for producing the necessary amount in cash at the time of the sale. Should you fail to do so, then the second highest bidder will be offered the property at their bid price. All plaintiffs are advised to be present at the sale in order to protect their interest.

Should the property fail to sell, the property will be returned to the defendant at your cost.

Should the defendant wish to satisfy the judgment, they can contact this office to obtain a current payoff amount. This amount will include the judgment, all accrued interest to date, the \$500.00 liquidation fee, and all costs incurred from your deposit. Full payoff by the defendant immediately cancels the sale and returns the property to the defendant. Please contact this office during normal business hours if the defendant desires to pay you directly, to determine the levy costs to date.

What we require:

- The original writ of execution and a copy of the judgment. This can be obtained from the same court that issued your judgment.
- Instructions for levy. This document is required to direct the Sheriff, in writing, to levy upon specifically described property; provide defendant's residence address, place of employment, and attorney of record, if any. This is a complicated form
- Any we do not supply the form. These are normally generated by an attorney.

Deposit. The Florida Supreme Court has ruled that the Sheriff shall require a deposit in advance to cover all costs in connection with the handling of an execution or he is personally liable for such costs if not paid. We will not bill or proceed unless these deposits are covered. These costs will not be waived for any reason.

- For levy on other personal property, contact this office for cost deposits. The cost to levy upon personal property other than motor vehicles, boats, or real estate is usually at least \$2000.00. The above deposits are based on costs required to conduct past levies and are not negotiable. These deposit amounts are subject to change without notice, please contact this office for current deposit amounts.
- 56.27 Affidavit. We require an affidavit as defined in Florida Statute 56.27:
 - (4) On or before the date of the first publication or posting of the notice of sale provided for under s. 56.21, the levying creditor shall file an affidavit setting forth the following as to the judgment debtor:
 - (a) An attestation that the levying creditor has reviewed the database or judgment lien records established in accordance with ss. 55.201 55.209 and that the information contained in the affidavit based on that review is true and correct;
 - (b) The information required under s. 55.203(1) and (2) for each judgment lien certificate indexed under the name of the judgment debtor as to each judgment creditor; the file number assigned to the record of the original and, if any, the second judgment lien; and the date of filing for each judgment lien certificate under s. 55.202 or s. 55.204(3); and
 - (c) A statement that the levying creditor either does not have any other levy in process or, if another levy is in process, the levying creditor believes in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

This is a free-form affidavit. In order to avoid undue delays in the execution and levy process, we require this affidavit be filed in our office prior to levy.
- Proof of ownership. For motor vehicles, we require a printout from the Department of Highway Safety and Motor Vehicles. You can contact the DHSMV at 850-922-9000. For a boat or other watercraft, we require a printout from the Department of Natural Resources. You contact the DNR at 850-488-5600. For real estate, we require a printout from the County Property Appraiser. . A printout from any other source (i.e. internet searches) is not considered legal proof and will not be accepted.