

# Supreme Court of Florida

## ORIGINAL

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No. 81,377

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THE FLORIDA BAR

RE: APPROVAL OF FORMS PURSUANT  
TO RULE 10-2.1(a) OF THE  
RULES REGULATING THE FLORIDA  
BAR - DEFAULT FORMS

[July 1, 1993]

PER CURIAM.

The Florida Bar petitions this Court seeking approval of six forms pursuant to rule 10-2.1(a) of the Rules Regulating the Florida Bar. We have jurisdiction under article V, section 2(a) of the Florida Constitution.

Rule 10-2.1(a)<sup>1</sup> allows "nonlawyers to assist in the completion of legal forms approved by this Court." The Florida Bar re Approval of Forms Pursuant to Rule 10-1.1(b) of the Rules Regulating the Florida Bar, 591 So. 2d 594, 595 (Fla. 1991). It was adopted to provide broader access to the court system while continuing to protect the public from those persons not competent to give legal advice. The Florida Bar re Amendment to Rules Regulating the Florida Bar (Chapter 10), 510 So. 2d 596, 597 (Fla. 1987). "In furtherance of this goal, the Bar has attempted to define those areas amenable to a forms practice and to develop simplified forms for use by nonlawyers pursuant to rule [10-2.1(a)]. The forms developed are of a fill-in-the-blank type and require nothing more than the insertion of factual information." The Florida Bar re Approval of Forms Pursuant to Rule 10-1.1(b), 591 So. 2d at 595.

In The Florida Bar re Advisory Opinion - Nonlawyer Preparation of and Representation of Landlord in Uncontested Residential Evictions, 605 So. 2d 868, 871 (Fla. 1992), this Court authorized property managers to complete, sign and file complaints for eviction and motions for default and to obtain final judgments and writs of possession on behalf of landlords in uncontested residential evictions for nonpayment of rent. We

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<sup>1</sup> The text of rule 10-2.1(a) was previously found at rule 10-1.1(b). The renumbering occurred in 1992 and became effective on January 1, 1993. The Florida Bar re Amendment to Rules Regulating the Florida Bar, 605 So. 2d 252, 426-27 (Fla. 1992).

recognized, however, that no form for a motion for default in an eviction proceeding had been previously approved. Id. at 871 n.. 4. Therefore, we requested the Florida Bar Standing Committee on Simplified Forms to draft and submit a form for approval. Id.

In response, the Standing Committee has drafted the forms necessary to obtain a default judgment in an uncontested residential eviction and submitted them for our approval. Additionally, the Committee drafted and submitted for approval default forms relating to a complaint for damages so that pro se litigants using the forms would have every form necessary to complete the process.

The forms drafted by the Committee are (1) Motion for Clerk's Default - Residential Eviction; (2) Motion for Clerk's Default - Damages (Residential Eviction); (3) Motion for Default Final Judgment - Residential Eviction; (4) Motion for Default Final Judgment - Damages (Residential Eviction); (5) Affidavit of Damages; and (6) Non-Military Affidavit. Prior to the instant petition, the forms were reviewed by the Real Property, Probate, and Trust Law Section of the Florida Bar and were approved by the Board of Governors of the Florida Bar. A notice announcing that the forms were being sent to the Court for approval was published in the Florida Bar News on March 15, 1993. The notice invited any interested party to respond to the Bar's petition. No response was filed. Therefore, we approve and authorize the publication of forms 1 through 6, as listed above.

In addition to the proposed forms, the Bar has prepared instructions for the use of the forms. While we authorize the publication of the instructions, we do not express an opinion as to their legal correctness. Because local procedures may vary from circuit to circuit, the chief judge of each circuit is authorized to prepare supplemental directions for the use of the approved forms. Supplemental directions shall be filed with the clerk of court in the respective circuit and with the clerk of this Court. See The Florida Bar re Approval of Forms Pursuant to Rule 10-1.1(b), 591 So. 2d at 595.

All forms approved by this Court shall be identified as such on the face of the forms which shall read: "Approved for use under rule 10-2.1(a) of the Rules Regulating the Florida Bar." The approved forms and instructions are appended to ensure their availability for use immediately upon the filing of this opinion.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

THE FORMS APPROVED BY THIS COURT ARE EFFECTIVE IMMEDIATELY.

FORM 76 — MOTION FOR CLERK'S DEFAULT — RESIDENTIAL EVICTION

FORM 77 — MOTION FOR CLERK'S DEFAULT — DAMAGES (RESIDENTIAL EVICTION)

FORM 78 — MOTION FOR DEFAULT FINAL JUDGMENT — RESIDENTIAL EVICTION

FORM 79 — MOTION FOR DEFAULT FINAL JUDGMENT — DAMAGES  
(RESIDENTIAL EVICTION)

FORM 80 — AFFIDAVIT OF DAMAGES

FORM 81 — NONMILITARY AFFIDAVIT

The tenant will have five days, after service, to file a written response to a complaint for eviction, and 20 days, after service, to file a written response to a complaint for back rent and damages. If the tenant fails to file a written response in that time you are entitled to a judgment by default.

Obtaining the judgment is a two-step process. First, a clerk's default should be obtained by delivering to the clerk of the court an executed Motion for Clerk's Default. Form 76 should be used to obtain a clerk's default when the tenant has failed to respond to an eviction complaint and Form 77 should be used to obtain a clerk's default when the tenant has failed to respond to a complaint for back rent and damages. In order to be entitled to a default, Form 81, Nonmilitary Affidavit, must be filed with the clerk.

Second, based on the clerk's default, a default final judgment should be obtained from the judge handling the case. The default final judgment is obtained by delivering to the court a Motion for Default Final Judgment — Residential Eviction (Form 78) and/or a Motion for Default Final Judgment — Damages (Residential Eviction) (Form 79) with an Affidavit of Damages (Form 80). If you are seeking a Default Final Judgment — Damages (Residential Eviction), a copy of the motion and affidavit must be served on the defendant. The forms provide a certificate of service to be completed establishing proper service of the motion and affidavit.

IN THE COUNTY COURT, IN AND FOR  
\_\_\_\_\_ COUNTY, FLORIDA

CASE NO.: \_\_\_\_\_

\_\_\_\_\_  
(Insert name of Landlord)

Plaintiff,

vs.

**MOTION FOR CLERK'S DEFAULT —  
RESIDENTIAL EVICTION**

\_\_\_\_\_  
(Insert name of Tenant)

Defendant.  
\_\_\_\_\_

Plaintiff asks the clerk to enter a default against \_\_\_\_\_, Defendant, for  
[name]  
failing to respond as required by law to plaintiff's complaint for residential eviction.

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
Telephone Number \_\_\_\_\_

**DEFAULT — RESIDENTIAL EVICTION**

A default is entered in this action against the Defendant for eviction for failure to respond as required by law.

DATE: \_\_\_\_\_

CLERK OF THE COURT

By: \_\_\_\_\_  
Deputy Clerk

cc:

\_\_\_\_\_  
(Insert name of Landlord)

\_\_\_\_\_  
(Insert name and address of Tenant)

IN THE COUNTY COURT, IN AND FOR  
\_\_\_\_\_ COUNTY, FLORIDA

CASE NO.: \_\_\_\_\_

\_\_\_\_\_  
(Insert name of Landlord)

Plaintiff,

vs.

\_\_\_\_\_  
(Insert name of Tenant)

Defendant.  
\_\_\_\_\_

**MOTION FOR CLERK'S DEFAULT —  
DAMAGES (RESIDENTIAL EVICTION)**

Plaintiff asks the clerk to enter a default against \_\_\_\_\_, Defendant, for  
[name]  
damages for failing to respond as required by law to plaintiff's complaint for damages.

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
Telephone Number \_\_\_\_\_

**DEFAULT — DAMAGES**

A default is entered in this action against the Defendant for damages for failure to respond as required by law.

DATE: \_\_\_\_\_

CLERK OF THE COURT

By: \_\_\_\_\_  
Deputy Clerk

cc:

\_\_\_\_\_  
(Insert name of Landlord)

\_\_\_\_\_  
(Insert name and address of Tenant)

IN THE COUNTY COURT, IN AND FOR  
\_\_\_\_\_ COUNTY, FLORIDA

CASE NO.: \_\_\_\_\_  
(insert case number assigned  
by Clerk of the Court)

\_\_\_\_\_  
(Insert name of Landlord)  
Plaintiff,

vs.

**MOTION FOR DEFAULT FINAL  
JUDGMENT — RESIDENTIAL EVICTION**

\_\_\_\_\_  
(Insert name of Tenant)  
Defendant.  
\_\_\_\_\_ /

Plaintiff asks the court to enter a Default Final Judgment against \_\_\_\_\_,  
[name]  
Defendant, for residential eviction and says:

1. Plaintiff filed a complaint alleging grounds for residential eviction of Defendant.
2. A Default was entered by the Clerk of this Court on \_\_\_\_\_.  
[date]

WHEREFORE, Plaintiff asks this Court to enter a Final Judgment For Residential Eviction  
against Defendant.

\_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number \_\_\_\_\_

cc: \_\_\_\_\_  
(Insert name and address of Tenant)

IN THE COUNTY COURT, IN AND FOR  
\_\_\_\_\_  
COUNTY, FLORIDA

CASE NO.: \_\_\_\_\_  
(insert case number assigned  
by Clerk of the Court)

\_\_\_\_\_  
(Insert name of Landlord)  
Plaintiff,

vs.

\_\_\_\_\_  
(Insert name of Tenant)  
Defendant.

**MOTION FOR DEFAULT FINAL  
JUDGMENT — DAMAGES  
(RESIDENTIAL EVICTION)**

Plaintiff asks the court to enter a Default Final Judgment against \_\_\_\_\_,  
[name]  
Defendant, for damages, and says:

1. Plaintiff filed a complaint for damages against the Defendant.
2. Defendant has failed to timely file an answer and a Default has been entered by the Clerk of this Court on \_\_\_\_\_.  
[date]
3. In support of this Motion, Plaintiff submits the attached Affidavit of Damages.

WHEREFORE, Plaintiff asks this Court to enter a Final Judgment against Defendant.

I CERTIFY that I \_\_\_\_ mailed, \_\_\_\_ telefaxed and mailed, or \_\_\_\_ hand delivered a copy of this motion and attached affidavit to the Defendant at \_\_\_\_\_  
[insert address at which tenant was served and telefax number if sent by telefax]

\_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number \_\_\_\_\_

IN THE COUNTY COURT, IN AND FOR  
\_\_\_\_\_ COUNTY, FLORIDA

CASE NO.: \_\_\_\_\_  
(insert case number assigned  
by Clerk of the Court)

\_\_\_\_\_,  
(Insert name of Landlord)  
Plaintiff,  
vs.

**AFFIDAVIT OF DAMAGES**

\_\_\_\_\_,  
(Insert name of Tenant)  
Defendant.  
\_\_\_\_\_

STATE OF FLORIDA       )  
COUNTY OF               )

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_,  
[name]  
who being first duly sworn, says:

1. I am \_\_\_\_\_ the Plaintiff or \_\_\_\_\_ the Plaintiff's agent (check appropriate response) in this case and am authorized to make this affidavit.
2. This affidavit is based on my own personal knowledge.
3. Defendant has possession of the property which is the subject of this eviction under an agreement to pay rent of \$\_\_\_\_\_ per \_\_\_\_\_.  
[rental amount] [week, month, or other payment period]
4. Defendant has not paid the rent due since \_\_\_\_\_.  
[date of payment tenant has failed to make]
5. Defendant owes Plaintiff \$\_\_\_\_\_ as alleged in the complaint plus  
[past due rent amount]  
interest.

6. Defendant owes Plaintiff \$ \_\_\_\_\_ as alleged in the complaint plus  
[amount of other damages]  
interest.

\_\_\_\_\_  
Name \_\_\_\_\_

Acknowledged before me on \_\_\_\_\_, by \_\_\_\_\_, who  
[date] [name]  
\_\_\_\_\_ is personally known to me/ \_\_\_\_\_ produced \_\_\_\_\_ as identification, and who  
[document]  
\_\_\_\_\_ did/ \_\_\_\_\_ did not take an oath.

\_\_\_\_\_  
NOTARY PUBLIC-STATE OF FLORIDA

Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

I CERTIFY that I \_\_\_\_\_ mailed, \_\_\_\_\_ telefaxed and mailed, or \_\_\_\_\_ hand delivered a copy of this  
motion and attached affidavit to the Defendant at \_\_\_\_\_

\_\_\_\_\_  
[insert address at which tenant was served and telefax number if sent by telefax]

This form was completed  
with the assistance of:  
Name:  
Address:  
Telephone Number:

CASE NO: \_\_\_\_\_

# NON-MILITARY AFFIDAVIT

\_\_\_\_\_, being first duly sworn, states under penalty of perjury:

- DATED: \_\_\_\_\_

**NOTARY PUBLIC-STATE OF FLORIDA**

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Original Proceeding - Rules Regulating The Florida Bar

John F. Harkness, Jr., Executive Director, The Florida Bar, Tallahassee, Florida; Alan T. Dimond, President, The Florida Bar, Miami, Florida; Patricia A. Seitz, President-elect, The Florida Bar, Miami, Florida; Dianne Saulney Smith, Chair, Board Committee on Access to the Legal System, Miami, Florida; Charlotte E. Karlan, Chair, Standing Committee on Simplified Forms, Miami, Florida; and Mary Ellen Bateman, UPL Counsel, The Florida Bar, Tallahassee, Florida,

for Petitioner