1995 Third Street, Suite 170
Baker City, Oregon 97814
Ph: 541-523-8213 ~ Fax: 541-523-8360

IN THE JUSTICE COURT FOR BAKER COUNTY DISTRICT #1
FOR THE STATE OF OREGON

F.E.D. SUMMONS AND EXECUTION ON RESTITUTION/EVICTION

The Baker Justice Court does not accept personal checks when filing an F.E.D.
We do accept business checks, made payable to Baker Justice Court.

INDIVIDUALS INTERESTED IN THEIR LANDLORD/TENANT RIGHTS OR OBLIGATIONS SHOULD CONSULT WITH AN ATTORNEY.

Information contained in this document describes procedural matters relevant to the statutory obligations of the Sheriff in FED eviction matters and is not intended as legal advice.

WHAT IS AN FED (Forced Entry and Detainer)?

An FED is a court action by a landlord against a tenant to remove the tenant from the rented dwelling (house, apartment, mobile home, mobile home space, or floating home). The FED action is for possession of the property only. The court will not give the landlord a judgment for monies owed. A landlord must file a separate small claims action to be awarded a judgment to collect delinquent rent, damages or to process other non-possession claims.

HOW DO I FILE AN FED?

FED packets are available at no cost at the Baker Justice Court office or online at www.bakercounty.org. The landlord must fully complete the forms and pay a filing fee of $75.00 as well as a service fee to whoever is to serve the documents. Service may be made by the Sheriff or a private process server. If you choose to utilize the Sheriff, you will need to submit separate payment to the Baker County Sheriff for $36.00[1]. This packet defines the participation of the Sheriff's Office as the process server.

Once filed, the Court Clerk will enter the first appearance date on the summons. This date shall be seven (7) days after the filing date unless no judge is available or an extension is requested by the plaintiff. Once the Sheriff receives the FED, it will be served in the manner described in ORS 105.155. This process requires that the Sheriff make one attempt to serve the summons personally.

[1] The service fee is up to 2 people; 3 or more is an additional $20 each. Further, an additional $40 will be charged to serve persons outside a 75 mile round trip area within Baker County.)

If, after the first attempt, the Deputy is unsuccessful in serving the summons, the Deputy is required to serve the summons by posting it on the door of the premises. The Court Clerk will also send a certified copy of the summons by mail to the defendant.

WHAT HAPPENS AT THE FIRST APPEARANCE?

YOU MUST APPEAR AT THE DATE AND TIME ON YOUR SUMMONS NOTICE. FAILURE TO APPEAR MAY RESULT IN THE COURT RULING IN THE OTHER PARTY'S FAVOR.

PLEASE NOTE: CELL PHONES AND OTHER ITEMS ARE NOT ALLOWED IN SECURE AREAS OF THE COURTHOUSE. BE PREPARED TO LEAVE ITEMS IN YOUR CAR OR DESIGNATED HOLDING AREAS IN THE COURTHOUSE.

If both parties appear in court at the first appearance, the court will set the matter for trial as soon as practicable unless the parties notify the court that the matter has been settled. A trial will be scheduled within two weeks following the first appearance. At the trial both parties are allowed to offer evidence.

If the plaintiff(s) appear(s) and the defendant(s) fail(s) to appear at the first appearance, a default judgment shall be entered against the defendant(s) in favor of the plaintiff(s) for possession of the premises and costs and disbursements.

If the defendant(s) appear(s) and the plaintiff(s) fail(s) to appear at the first appearance, an order shall be entered dismissing the complaint and awarding costs and disbursements against the plaintiff(s) in favor of the defendant(s).

JUDGMENT

If the defendant fails to appear at one of the hearings or at trial, a judgment of restitution can be ordered by the judge upon a request from the plaintiff. If after hearing the evidence at a trial, the judge may enter a judgment of restitution or a judgment of dismissal. The judgment of the court is recorded as public record and is usually reviewed and reported by credit reporting agencies.

ENFORCING JUDGMENT

1. Execution of Restitution: Once the landlord and tenant(s) have had an opportunity for a hearing and a judgment for restitution has been rendered, the landlord is then entitled to obtain an Execution of Judgment of Restitution which authorizes the Sheriff to compel the tenant(s) to vacate the premises. If the tenant(s) is/are still in possession of the premises and has/have not agreed to move out by the mutually acceptable date, immediately after court, the landlord can take the Write of Execution of Judgment of Restitution to the Sheriff's Office, pay the required service fee of $36.00[2], and have a copy of the Writ served on the tenant(s).

2. If a judgment of restitution of premises is rendered by the Court, the landlord shall enforce the judgment by paying the fee and having the Court Clerk issue a Notice of Restitution. The notice is served on the tenant and gives the tenant four days from the date of service to vacate the premises. The landlord must make arrangements for service either with the Sheriff or a private process server. If the notice is not complied with and no hearing is requested, the landlord must return to the Court to request a Writ of Execution and pay a fee. The Court Clerk issues the writ which must be served by the Sheriff's Office.

[2] The service fee is up to 2 people; 3 or more is an additional $20 each. Further, an additional $40 will be charged to serve persons outside a 75 mile round trip area within Baker County.

3. Once the Execution of Judgment of Restitution has been served and the tenant has not responded to its demands, the landlord may not lock the premises or otherwise coerce the tenant personally, but may request the Sheriff to forcibly evict the tenant from the premises. This may be accomplished by calling the Sheriff's Office at 541-523-6415 to schedule the eviction. There are two (2) methods of evicting a tenant. The landlord should decide which one he/she wishes to use prior to calling the Sheriff to schedule the eviction.

   a. **Sheriff's Eviction**
      A Baker County Sheriff's Deputy will respond to remove the tenant(s) and all of his/her goods and chattels from the premises. The goods will be placed in storage pending claim by the tenant(s). If the tenant(s) does/do not claim the goods and chattels, the Sheriff may levy and sell the goods to help pay the cost of the eviction. Utilizing this method requires the landlord to pay a Sheriff's fee of $52.00 plus sufficient money in advance to pay the cost of hiring a licensed and bonded moving company to move the property and place it in storage for 60 days.

   b. **Self Help Eviction (ORS 105.165)**
      The landlord must have the tenant(s) removed from the premises by a Deputy Sheriff and then the landlord may take possession of the tenant(s) personal property until the tenant(s) has/have opportunity to claim the property. Under this method of eviction, THE SHERIFF MUST RESTORE THE PREMISES TO THE LANDLORD BEFORE HE/SHE CAN TAKE POSSESSION OF THE PERSONAL PROPERTY OR CHANGE THE LOCKS.

      Once the Sheriff has restored the premises to the landlord, he/she may take possession of the goods and chattels by placing them in safekeeping until the tenant(s) has/have opportunity to claim the property. It should be emphasized that the landlord has a personal liability for the safekeeping of the tenant(s) property while in his/her possession. The landlord's obligation relevant to the keeping, notice and sale or disposal of the tenant(s) unclaimed property is described under ORS 105.165. A fee of $52.00 is required for this type of eviction payable to the Baker County Sheriff.

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1
1995 THIRD STREET, BAKER CITY, OR 97814

______________________________ Landlord/Agent/Plaintiff(s)	)))	CASE No.______________________
______________________________ Tenant(s)/Occupants/Defendant(s)	)))	SUMMONS –RESIDENTIAL EVICTION

TO: ____
Street Address of Property Occupied City State Zip

____
Mailing Address (if different than above)

NOTICE TO TENANT(S)

READ THESE PAPERS CAREFULLY. YOUR LANDLORD WANTS TO EVICT YOU.

ON, ____at ________________AM/PM, you must come to the Baker County Courthouse, 1995 Third Street, Baker City, Oregon 97814.

- If you do not appear in court and your landlord does, your landlord will win automatically and can have the Sheriff physically remove you.
- If you file an ANSWER, pay your filing fee of $75.00 and appear but your landlord does not, this eviction will be dropped.
- If you file an ANSWER, pay your filing fee of $75.00 and both you and your landlord appear:
  1. The Judge may ask you to try to reach an agreement with your landlord, but this is voluntary. Trained mediators may be available free of charge to help resolve the dispute.
  2. The Court will schedule a trial within fifteen (15) days if you and your landlord do not reach an agreement or if you do not agree to move out.

IF YOU WANT A TRIAL, YOU MUST:

1. Show up in Justice Court at the date and time scheduled above.
2. One the same day, file an ANSWER with the court giving a legal reason why you should not be evicted.
3. Give a copy of the ANSWER to your landlord (or acting agent/attorney).
4. Pay a filing fee of $75.00.

IF YOU HAVE ANY QUESTIONS, YOU SHOULD SEE AN ATTORNEY IMMEDIATELY. If you need help finding an attorney, you can call the Oregon State Bar's Lawyer Referral Service at 503-684-3763 or toll free in Oregon at 1-800-452-7636.

____________________________________, Signature of Plaintiff/Agent

____________________________________, Plaintiff/Agent Address

____________________________________, Plaintiff/Agent Telephone Number

- -

I certify that this is a true copy of the original summons.

By:_____________________________Date: ____________________
Justice Court Clerk/TCA

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

DEFENDANT/TENANT: PLEASE READ THE FOLLOWING

In case of your failure to appear at said time and place, the PLAINTIFF(S) will apply to the court for a Judgment of Restitution of the premises described in the complaint.

<u>If you wish to contest this FED you must pay a first appearance fee of $75.00 and appear at said time and place.</u> You must ask for a bench trial or pay $77.00 for a jury trial. The trial will be set no later than 15 days from the date of your first appearance. Filing fees are mandated for both plaintiff(s) and defendant(s) pursuant to ORS 105.130 for all options.

The court will make available to you a form if you wish to contest the action on which to file an answer or trial request, which shall be served upon the plaintiff(s) on the date of your first appearance. This form is called "Defendant's Answer" and is included in this packet. If you request a trial, the plaintiff(s) will then have to pay a $12.00 trial fee to the court.

If this is a dwelling unit to which ORS 90.100 to 90.940 applies:

1. If the plaintiff(s) appear(s) and the defendant(s) fail(s) to appear at the first appearance, a default judgment shall be entered against the defendant(s) in favor of the plaintiff(s) for possession of the premises and costs and disbursements.

2. If the defendant(s) appear(s) and the plaintiff(s) fail(s) to appear at the first appearance, an order shall be entered dismissing the complaint and awarding costs and disbursements against the plaintiff(s) in favor of the defendant(s).

3. An attorney shall be entitled to appear on behalf of any party, but no attorney fees may be awarded if the defendant(s) does/do not contest the action.

4. The plaintiff(s)/agent may obtain a continuance of the action for as long as the plaintiff(s)/agent deems necessary to obtain the services of an attorney.

5. If both parties appear in court on the date contained in the summons, the court shall set the matter for trial as soon as practicable, unless the parties advise the court that the matter has been settled. The trial shall be scheduled no later than 15 days from the date of such appearance. If the matter is not tried within the 15 day period, the court shall order the defendants(s) to pay rent that is accruing into the court, provided the court finds after hearing, that entry of such an order is just and equitable.

6. The court will permit an unrepresented defendant(s) to proceed to trial by directing the defendant(s) to file an answer in writing on a form which is available from the Justice Court Clerk and to serve a copy upon the plaintiff(s) on the same day as the first appearance.

7. If an unrepresented defendant(s) file(s) an answer as provided above, the answer shall not limit the defenses available to the defendant(s) at trial under ORS 90.100 to 90.940. If such a defendant(s) seeks(s) to assert at trial a defense not fairly raised by the answer, the plaintiff(s) shall be entitled to a reasonable continuance for the purposes of preparing to meet the defense.

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

CASE No. _____

RESIDENTIAL EVICTION COMPLAINT
Plaintiff's Initial Filing Fee $75.00

Plaintiff (Landlord/Agent)	Defendant (Tenant/Occupant)
_____	_____
_____	_____
Address_____	Address_____
City_____	City_____
State_____Zip_____	State_____Zip_____
Telephone_____	Telephone_____

1. Tenant(s) is/are in possession of the dwelling unit, premises, or rental property described above or located at: _____
   Street Address City State Zip

2. Landlord is entitled to possession of the property because of:
   - ☐ 24-hour notice for personal injury, substantial damage, extremely outrageous act of unlawful occupant. ORS 90.396 or 90.403.
   - ☐ 24-hour or 48-hour notice for violation of drug or alcohol program. ORS 90.398.
   - ☐ 72-hour or 144-hour notice for nonpayment of rent. ORS 90.394.
   - ☐ 7-day notice with stated cause in a week-to-week tenancy. ORS 90.392(5).
   - ☐ 10-day notice for pet violation, a repeat violation in a month-to-month tenancy or without stated cause in a week-to week tenancy. ORS 90.405, 90.427(1), or 90.392(5).
   - ☐ 20-day notice for repeat violation. ORS 90.630.
   - ☐ 30-day or 180-day notice without stated cause in a month-to-month tenancy. ORS 90.427(2) or 90.429.
   - ☐ 30-day notice with stated cause. ORS 90.630, 90.632, or 90.392.
   - ☐ Other notice_____
   - ☐ No Notice(explain)_____
   - ☐ Date & Time Notice was given: _____

   Method of Delivery: ☐ Mail ☐ Posting

   A COPY OF THE NOTICE RELIED UPON, IF ANY, IS ATTACHED

3. If the landlord uses an attorney, the case goes to trial and the landlord wins in court, the landlord can collect attorney fees from the defendant(s) pursuant to ORS 90.255 and 105.137(3). Landlord requests judgment for possession of the premises, court costs, disbursements and attorney fees.

I certify that the allegations in this complaint are true to the best of my knowledge.

_____ _____
Date Signature of Plaintiff(s)/Agent

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

_____	)	
Landlord/Agent/Plaintiff(s)	)	
	)	CASE No. _____
	)	
vs.	)	
	)	DEFENDANT'S ANSWER
	)	(Residential Eviction)
_____	)	Filing Fee $75.00
Tenant(s)/Defendant(s)	)	

I/WE deny that the plaintiff(s) is/are entitled to possession because:

- ☐ The landlord did not make repairs
  List any repair problems

  _____

  _____

- ☐ The landlord is attempting to evict me/us because of my/our complaints/or the eviction is retaliatory.
- ☐ The eviction notice is wrong.
- ☐ List any other defenses:_____

_____

_____

I/WE may be entitled as the prevailing party to recover attorney fees from plaintiff(s) if I/WE obtain legal services to defend this action pursuant to ORS 90.255.

I/WE ask that the plaintiff(s) not be awarded possession of the premises and that I/WE be awarded my/our costs and disbursements and attorney fees, if applicable, or a prevailing fee.

DATED: _____ _____
Signature of Defendant(s)/Agent

_____
Street Address

_____
City State Zip Telephone

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

_____	)	
Landlord/Agent/Plaintiff(s)	)	
	)	CASE No. _____
	)	
	)	
	)	
_____	)	
Tenant(s)/Defendant(s)	)	

STATEMENT OF COSTS AND DISBURSEMENTS

DO NOT INCLUDE UNPAID RENT OR LATE CHARGES
ORS 105.145

Baker County Filing Fee: $_____

Baker County Sheriff/Service Fees $_____

Other:_____

TOTAL:$_____

STATE OF OREGON)
COUNTY OF BAKER)

I, _____, being first duly sworn, say: that I am _____ _____ in the within entitled action, and that the items in said statement are correct and true, and that said disbursements have been necessarily incurred in said action as I verily believe.

_____
Plaintiff(s)

SUBSCRIBED AND SWORN TO BEFORE ME on this _____day of _____, 20____.

_____
Justice Court Clerk/Notary Public

NON-MILITARY AFFIDAVIT

CASE NO._____

_____
Landlord/Agent/Plaintiff (s)

_____
Tenant(s)/Agent/Defendant (s)

I, _____, being first duly sworn, depose and say: That I/WE am/are the plaintiff(s) in the above –entitled suit: That _____, the defendant(s) herein, (is/are), to the best of my knowledge and belief, not now in the military service of the United States, and (is/are) in no way connected with such service. That I/WE make this affidavit by reason of and in accordance with Article II, Section 200, Soldiers and Sailors Civil Relief Act of 1940, as approved October 17, 1940, by the 76th congress of the United States, as amended.

_____
Plaintiff(s)

Subscribed and sworn to before me this ____day of _____20_____.

_____
Justice Court Clerk/TCA
Baker Justice Court District #1

MOTION FOR DEFAULT JUDGMENT

CASE NO._____

_____
Landlord/Agent/Plaintiff (s)

_____
Tenant(s)/Agent/Defendant (s)

Comes now Plaintiff(s) _____ and moves this court for an ORDER declaring the said _____, Defendant (s) has/have failed to answer Plaintiff(s) complaint on file herein within the time required by law or to otherwise plead thereto, and is now in default.

_____Plaintiff(s)

_____

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

_____	)	
Landlord/Agent/Plaintiff(s)	)	
	)	CASE No. _____
	)	
	)	JUDGMENT/ORDER
	)	
_____	)	
Tenant(s)/Defendant(s)	)	

On _____, 20___, a hearing was held in an action for Forcible Entry and Unlawful Detainer upon the premises described as:

_____

Street Address City State Zip

The following parties appeared: [ ] Plaintiff(s) [ ] Defendant(s) [ ] Neither

[ ] Judgment of dismissal.

[ ] Judgment in favor of plaintiff for possession of the premises described above.

[ ] Effective Immediately [ ] Effective:_____

[ ] Judgment in favor of defendant dismissing plaintiff's complaint (awarding costs and disbursements).

[ ] Hearing continued to _____, 20___, at _____a.m./p.m. (to be set within 15 days)

Dated this ____day of _____, 20___.

_____

Don Williams
Justice of the Peace
Baker County, District #1

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

Case No. _____

NOTICE OF RESTITUTION

TO_____
Defendant(s)/Tenant(s)

_____

_____
Address of Rental Property

DEADLINE TO MOVE OUT

MOVE OUT DATE_____

The court has ordered you to move out of the property. You must move out no later than 11:59 PM on the MOVE OUT DATE.

If you and everyone else living there do no move out by that time, the Sheriff will physically remove you. You must also move all of your belongings by that time. Anything you leave behind will be stored or disposed of as allowed by law.

_____ _____
Justice of the Peace Date

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

Case No. _____

State of Oregon	)		
	)		
	)	ss.	WRIT OF EXECUTION OF
County of Baker	)		JUDGMENT OF RESTITUTION

To the Sheriff:

This was an eviction action for possession of the following premises:

_____

Name Street Address City State/Zip

Judgment was entered that the plaintiff(s) have restitution of the premises and that the plaintiff(s) may be entitled to court costs and disbursements.

In the name of the State of Oregon, you are ordered to enforce and serve on this Writ on the defendant(s), in the manner provided in ORS 105.161(1), *after the four-day period* provided in the notice of restitution.

If the defendant(s) has/have not moved out of the premises *by the end of the four-day period or any delay requested by the plaintiff(s)*, whichever is later, and if the plaintiff(s) has/have paid all fees or enforcement of this execution, you shall immediately make legal service of this Writ and an eviction trespass notice on the defendant(s). You shall remove the defendant(s) and any other person subject to the judgment, if present, from the premises and return possession of the premises to the plaintiff(s).

The plaintiff(s) shall be responsible for removing, storing, and disposing of any personal property left by the defendant on the premises following the removal of the defendant(s) and the return of the possession of the premises, provided by ORS 105.165.

Dated this _____day of _____, 20____.

_____
Plaintiff(s)

_____
Justice of the Peace

_____
Street Address

_____
City/State/Zip

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR BAKER COUNTY DISTRICT #1

Case No. _____

I request that the Sheriff of Baker County serve the attached civil papers:

DEFENDANT(S):_____

ADDRESS:_____

EMPLOYER:_____

EMPLOYER'S ADDRESS:_____

Defendant(s) is known to frequent the following places:

_____

_____

Telephone Numbers: Home: _____Work:_____

Please give any other information that will help in finding and serving the Defendant(s), i.e. make, model and description of vehicle:

_____

_____

Plaintiff(s):_____ Date:_____