



Instructions: Forcible Detainer Eviction - No Landlord/Tenant Relationship

DEFINITION: Forcible Detainer Eviction

These forms can only be used to remove someone from your property if:

1. You are the owner of the property.
2. A landlord-tenant relationship never existed between you and the person(s) occupying the property (Defendant(s)).
3. a. The person “by force, or by menaces and threats of violence, unlawfully holds and keeps possession of the property.”
or
b. The person unlawfully entered the property, “during the absence of the occupant or property owner... and who, after demand [was] made for the surrender...refuses to surrender the [property].” Idaho Code § 6-310.

Note: You could be responsible for three times the actual damages suffered by the Defendant if you use these forms when a landlord-tenant relationship did exist. A lawyer can help you decide if these forms are right for you.

STEP 1 Demand that the property be returned to you

You (Plaintiff) must communicate to the person(s) occupying the property that they must leave the property and surrender the property to you. Each Defendant must be notified individually.

If the Defendant(s) refuse(s) to leave, you can file a lawsuit with the court to evict the Defendant(s).

STEP 2 Complete the forms.

Complete the following three forms in black ink:

- Form 1. *General Civil Case Information Sheet*
Fill out the form as completely as possible.

- Form 2. *Summons for Eviction (Forcible Detainer) CAO FD 1-2*
See example to the right for guidance on completing the court heading. Include your full legal name and the full legal name (to the extent known) of the person(s) you are suing. The court clerk will fill in the Case Number.

Leave the hearing date and time blank for now; the court clerk will provide that information. Fill in the county and street address of the courthouse where you will file.

- Form 3. *Complaint for Eviction (Forcible Detainer) CAO FD 1-1*

Write the complete property address, and the details of how you demanded that the person vacate the property. Check the box to indicate the Defendant’s armed forces status. By signing you are swearing under penalty of perjury that the document is true.

John Doe	
Full Name of Party Filing Document	
123 Street	
Mailing Address (Street or Post Office Box)	
Boise, ID 11111	
City, State and Zip Code	
(111) 111-1111	
Telephone	
myemail@address.com	
Email Address (if any)	
IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT	
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI	
John Doe	Case No. _____
Plaintiff(s),	COMPLAINT FOR POSSIBLE PROPERTY HELD BY FORCIBLE DETAINER
vs.	Fee Category: Filing Fee: \$ _____
John Doe II	

STEP 3 Make copies.

Make at least 2 copies of the *Complaint* and *Summons*:

- original for the court,
- 1 copy for yourself, and
- 1 copy for each Defendant.

Only the original copy of the *Civil Case Information Sheet* is needed.

STEP 4 File the forms with the court.

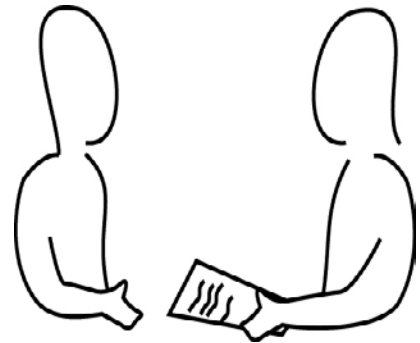
Take the forms, all copies, and the filing fee to the court to file the case. The clerk will file stamp your paperwork, open a new case file, and return the copies to you. The clerk will set a court date for you, and fill it in on each copy of the *Summons*.

STEP 5 Have someone deliver (serve) a copy to the Defendant(s).

You must notify the Defendant(s) of the court case and upcoming trial date by having an adult deliver the *Summons* and *Complaint* to the Defendant(s); this is called “personal service.” The Defendant(s) must receive the forms at least twenty-four (24) hours before the scheduled hearing time.

➤ For **personal service**, choose **1** of these options:

- a. Pay the **Sheriff’s office** to serve the papers. You must tell them exactly where to find each Defendant. The Sheriff will either give you the *Return of Service* or file it directly with the court clerk.
- b. Pay a professional **process server** to deliver the forms to each Defendant. Or
- c. **Ask someone 18 or older** – not **you** or anyone else involved in the case – to personally give each Defendant a copy of the forms.



Ask the server to complete the Affidavit of Service

Once the server completes and signs *Form 4. Affidavit of Service (CAO FD 2-1)*, it will be returned to you to file with the court at the time of your trial.

If you are unable to have the documents delivered to Defendant in time you can go back to the court clerk, with another *Summons* and copies and ask for another trial date.

STEP 6 Prepare for Trial.

Complete the heading on the following forms and fill in the case number:

- Form 5. *Judgment for Eviction CAO FD 8-1*

Fill in the complete property address, and the total costs you paid for service fees and filing fees. Leave the date and signature line blank; the judge will sign it.

On the last page, Clerk’s Certificate of Service, fill in yours and Defendant(s)’ name and mailing address. Leave the date and signature line blank; the clerk will date and sign it.

- Form 6. *Memorandum of Costs CAO FD 7-2*

You can request that the Defendant pay your costs and fees; this includes the filing fee and the fee to have the Defendant(s) served. You CANNOT ask for other money damages in this court case. You can sue to recover any other damages in a separate lawsuit.

Form 7. *Writ of Restitution of Premises CAO FD 10-1*

If Defendant(s) does/do not leave the property following the trial, you will need this form to request that the Sheriff remove the Defendant(s) from the property.

Make copies of all forms:

- original for the court,
- 1 copy for yourself, and
- 1 copy for each Defendant.

Prepare an envelope with an address and stamps for each Defendant, or pay the court a mailing fee.

STEP 7 Go to trial.

Arrive at least 15 minutes early and bring your forms and copies with you. At the trial you must establish the facts stated in your *Complaint*, and that a *Complaint* and *Summons* were served on the Defendant(s).

If the judge rules in your favor, he/she will sign the *Judgment for Eviction*. The court clerk can certify your copy. If the Defendant did not show up, the clerk will mail a copy of the *Judgment* to the Defendant.

STEP 8 Have the Sheriff remove the Defendant(s) from the property.

If the Defendant(s) still refuse(s) to move, you may need the sheriff's help. Prepare form *CAO FD 10-1 Writ of Restitution of Premises*:

1. Complete the court heading and include the case number.
2. Fill in the complete property address.
3. Fill in the date the judge signed the *Judgment for Eviction*.
4. Copy the total amount of costs from the signed *Judgment for Eviction*.
5. Leave the date and signature line blank.
6. Make two copies.

Take the original and copies to the court clerk. There is a two dollar (\$2.00) fee for the clerk to issue your *Writ*. Then take the issued *Writ* to the sheriff's department. The sheriff's department can then explain the plan to remove the Defendant(s) from your property. There will be additional fees charged by the sheriff.

QUESTIONS? Contact your local Court Assistance Office if you have questions:

<https://courtsselfhelp.idaho.gov/find-office>.

Talk to an Attorney, if possible. These instructions are legal information only, and are not legal advice. Even if you follow all instructions you are not guaranteed a favorable result. You should always talk to a lawyer for legal advice before filing any legal paperwork. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles real property cases.