



Civ Pro 101

Stages of a civil law suit and related strategy considerations.

In the Beginning . . .

- Before the beginning
 - Administrative Remedies
- Initial Pleading
 - Petition (FRCP 1.110(b))
 - Complaint (FRCP 1.110(b))
- Summons vs. Subpoena
 - PLEASE NOTIFY ATTORNEY OR FACT
 - Summons is for lawsuit (FRCP 1.070(a))
 - Subpoena is for appearance or things
 - Time Limits (20 days from service of Complaint/Summons)
 - No response = Default and maybe Default Judgment

Summons

IN THE CIRCUIT COURT IN AND FOR ESCAMBA COUNTY, FLORIDA
PERFORMANCE PERSONNEL SERVICES OF PENSACOLA, LLC A FLORIDA LIMITED
LIABILITY CORPORATION

PLAINTIFF,

Vs.

CASE NO: 2017 CA 001011

DIVISION: C

FLORIDA STRUCTURAL GROUP, P.L.L.C.
DEFENDANT.

SUMMONS PERSONAL SERVICE ON A NATURAL PERSON

TO DEFENDANT: **BRIAN W PEACIFFY**
1731 ALICO CENTER ROAD
SUITE D
FORT MYERS, FL 33867

IMPORTANT

A lawsuit has been filed against you. You have 30 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. If you do not file an answer, the court will enter a default judgment against you and in favor of the plaintiff. Once the court has entered the default judgment, you may lose the case, pay your wages, money, and property without further warning from the court. There are other legal requirements. You may want to call an attorney first. If you do not know an attorney, you may call an attorney whose services are available for a fixed fee per hour.

You should file this in the appropriate court in the state of Florida. The plaintiff has requested that the court require you to take a copy of your files relevant to this "Electronic Discovery" matter.

IMPORTANTE

Un caso ha sido presentado contra usted. Tiene 30 días calendario a partir de la fecha en que este aviso es servido para presentar la respuesta escrita, así como el pago de los costos de litigio. Si usted no presenta su respuesta escrita, el juez podrá emitir un veredicto por defecto a favor de la parte demandante. Una vez que el juez haya emitido un veredicto por defecto, usted puede perder el caso, pagar sus salarios, dinero y bienes sin más advertencia del tribunal. Existen otros requisitos legales. Puede que desee consultar a un abogado antes de presentar su respuesta escrita. Si usted no conoce un abogado, puede llamar a uno de los abogados de asistencia legal que aparecen en la guía adjunta.

Si desea responder a la demanda, verifique con el tribunal que el caso se presente en el tribunal correcto, así como el tribunal en el que se piden los costos de litigio por hora. Los servicios de un abogado están disponibles para una tarifa fija por hora.

IMPORTANT

Des demandes judiciaires ont été présentées contre vous. Vous avez 30 jours calendrier à partir de la date de l'assignation de cette citation pour répondre aux demandes ainsi qu'à la partie plaignante sur les coûts de litige. Si vous ne présentez pas votre réponse écrite, le juge peut rendre un jugement par défaut en faveur de la partie plaignante. Une fois que le juge a rendu un jugement par défaut, vous pouvez perdre le cas, payer vos salaires, argent et biens sans plus d'avertissement du tribunal. Il y a d'autres exigences juridiques. Vous pouvez vouloir consulter un avocat avant de présenter votre réponse écrite. Si vous ne connaissez pas d'avocat, vous pouvez appeler un avocat dont les coordonnées sont indiquées sur la liste des services juridiques adjointe.

Si desea responder a la demanda, verifique con el tribunal que el caso se presente en el tribunal correcto, así como el tribunal en el que se piden los costos de litigio por hora. Los servicios de un abogado están disponibles para una tarifa fija por hora.

TABLE PLAINTIFF: JAMES HAY JASON C TAYLOR
1709 HILMUTAGH BLVD STE 210
LALIA, FLORIDA 33888

USDA 100 110 04
USDA 100 110 04
USDA 100 110 04
USDA 100 110 04

SUMMONS

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney, whose address is, within 20 days¹ after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

Eeny, Meeny, Miney, Moe

- State v. Federal
- Removal Requirements
- Removal Deadlines
- Workers' Compensation Issues

Four Options for Defendants

- Dismissal
- Summary Judgment
- Trial
- Resolution

Dismissal-Rules

- FRCP 1.420
- Can be voluntary, involuntary, or due to inactivity
- Complaint must do more than provide labels or conclusions or a formulaic recitation of the elements of a cause of action. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).
- Complaint must contain sufficient factual matter, accepted as true to “state a claim of relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).
- Court accepts all factual allegations as true.
- Court does not have to accept as true legal conclusions.

Dismissal-Practical

- Factual Disputes v. Legal Standard
- State v. Federal (Fed.RCP 12(b)(6))
- Strategy Considerations –
 - What information am I giving up?
 - Costs
- With Prejudice v. Without Prejudice

Summary Judgment

- FRCP 1.510
- Claimant cannot seek less than 20 days after commencement of lawsuit-no time limitation for Defendant.
- Legal determination by judge vs. factual determination by jury.
- Rule does not require evidence, but typically motion is based on information obtained through discovery.
- Moving party must allow at least 20 days after motion and any supporting information is filed before a hearing can be set.
- Non-moving party must provide response and supporting materials to moving party 5 days before hearing if by mail and 2 days if by delivery.

SJ Practical Issues

- Denial for defense does not mean case is lost, but typically only get one opportunity.
- Factual dispute is typically basis for denial.
- Costs are greater at this stage based on discovery needed to support motion.
- Delayed filing can prevent last minute factual discovery from affecting motion.
- Courts often hear motions at pretrial or otherwise close to trial – where possible, accelerate that process to bring down costs.
- Affidavits vs. Depositions for support.

Settlement/Resolution

- Point of Equal Unhappiness
- Balance of Costs and Certainty of Result
 - Allocation of Resources (Time and Money)
- Often Allows for Greater Flexibility in Creating Solution
- Consideration of Publicity Always a Factor
- Proposal for Settlement as Tool (FRCP 1.442/Fla. Stat. 768.79)
- No Deadline or Time Restriction

JCT

(Bowtie)

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Trial – Battle of Perception

- Lengthy process to get to trial – often 10-15 months, depending on issues and time of year.
- Evidence gets to jury in two primary forms – documentation and testimony.
- Courts schedule multiple cases for docket/trial periods due to settlement and cancelling between parties.
- Judge you have may not be expert in field, but should be expert in admissibility, evidence code, and objections.
- In spite of lengthy process to get there, the parties have a comparatively microscopic time to present their respective cases. Let the perception battle begin.

Trial Order - Pretrial

- Attorney Conference
 - Witnesses
 - Exhibits
- Pretrial
- Motions in Limine/Reduction of Issues
- Pretrial Preparation

Trial Order - Trial

- Jury Selection
- Opening
- Plaintiff's Case
- Potential Motion for Directed Verdict
- Defendant's Case
- Rebuttal
- Another Potential Motion for DV
- Charging Conference
- Jury Deliberation and Verdict

MC McCONNAUGHAY · COONROD POPE · WEAVER · STERN P.A.

- Questions??
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- www.mcconnaughay.com