

NOTICE OF MOTION WRIT OF RESTITUTION

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Possession
Registry	Sydney
Case number	

TITLE OF PROCEEDINGS

[First] plaintiff [name]

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant [name]

#Second defendant #Number of
defendants (if more than two)

JUDGMENT DETAILS

Date of judgment to be enforced

ENFORCEMENT DETAILS

Date writ of possession issued

FILING DETAILS

Person seeking orders [name] [role of party eg plaintiff]

#Filed in relation to writ of possession in favour of the [role of party eg
plaintiff] [include only if form to be eFiled]

#Legal representative [solicitor on record] [firm]

#Legal representative reference [reference number]

Contact name and telephone [name] [telephone]

Contact email [email address]

PERSON AFFECTED BY ORDERS SOUGHT

[name] [role of party eg defendant]

HEARING DETAILS

This motion is to be dealt with in the absence of the parties.

[on separate page]

ORDERS SOUGHT

- 1 #Leave for the issue of a writ of restitution.
- 2 #The issue of a writ of restitution to restore to the [role of party eg plaintiff (eg where a defendant has wrongfully regained possession)] possession of the land comprised in [title/folio numbers] being the land situated at and known as [address].

#The issue of a writ of restitution to restore to the [role of party eg defendant (eg if judgment for possession has been set aside)] possession of the land comprised in [title/folio numbers] being the land situated at and known as [address].

SIGNATURE

#Signature of legal representative

#Signature of or on behalf of
party if not legally represented

Capacity [eg solicitor, authorised officer, role of party]

Date of signature

[on separate page]

AFFIDAVIT

Name

Address

Occupation

Date

I [#say on oath #affirm]:

1 #I am the [role of party].

#I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit].

2 The [role of party eg defendant] is the registered proprietor of the land comprised in [Title/Folio numbers] being the land situated at and known as [address] **(the property)**.

3 Annexed at page and marked " " is a copy of the Sheriff's notice to vacate dated .

4 #Annexed at page and marked " " is a copy of the Sheriff's report on the execution of the writ of possession dated .

5 [State the facts and circumstances that entitle the person seeking orders to a writ of restitution. Select the appropriate option. Modify, or add further paragraphs, if required.]

#[#After entry of the property by the Sheriff on (date) under a writ of possession #After the plaintiff was put in possession of the property on (date) by the Sheriff], the [role of party eg defendant] re-occupied the property [give particulars of re-occupation, eg by breaking the locks].

#[#After entry of the property by the Sheriff on (date) under a writ of possession #After the plaintiff was put in possession of the property on (date) by the Sheriff], the judgment was set aside.

#Possession of the property has been wrongfully obtained [#in excess of the terms of the writ of possession #under a writ of possession issued on (date) which was irregular because (give particulars of irregularity)].

6 #The source of my knowledge of the matters stated in this affidavit concerning the re-occupation of the property by the [role of party] is .

7 # [Indicate, if appropriate, the extent to which any judgment debt (eg if possession and debt claimed) or amounts due under the judgment for costs have been satisfied - see UCPR 39.2(3).]

8 # Leave to issue a writ of restitution was granted by the court on [date].

Leave to issue a writ of restitution is being sought in this motion.

9 The amounts claimed for costs in respect of this writ are:

Execution fees	\$
Solicitors fees	\$
TOTAL	\$

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*

2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:

 Identification document relied on (may be original or certified copy) †

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

 [* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011.]

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[Include the following additional information, if known, which will assist the Sheriff when executing the writ.]

ADDITIONAL INFORMATION TO ASSIST SHERIFF'S OFFICE

Short description of claim [eg failure to pay mortgage]

Persons in occupation

Telephone number of
occupier(s) (if known)

Are there any animals or
anything else at the premises
that might pose a threat to the
health and safety of Sheriff's
officers?