

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]

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

Signature of witness

Name of witness

Address of witness

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

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?