

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2016-039 PA/PI-CIR

RE: UNIFORM PROCEDURES FOR FORFEITURES OF PERSONAL PROPERTY

The Florida Contraband Forfeiture Act sets forth the procedural requirements governing the forfeiture of contraband articles. *See* §§ 932.701–932.7062, Florida Statutes. Administrative Orders 95-97 and PA-CIR-00-20 were enacted in order to implement these procedures in a uniform manner within the courts of the Sixth Judicial Circuit. Recent statutory changes passed by the Florida Legislature require these procedures to be updated.

In order to provide for the uniform disposition of forfeiture proceedings and ensure consistency amongst all seizing agencies within the Sixth Judicial Circuit, and pursuant to the authority of the Chief Judge in accordance with Article V, section 2, Florida Constitution, Rule of Judicial Administration 2.215, and section 43.26, Florida Statutes, it is therefore

ORDERED:

A. Circuit Civil Forfeiture Proceedings Generally

1. In accordance with section 932.704(2), Florida Statutes, of the Florida Contraband Forfeiture Act, all civil forfeiture cases shall be heard before a judge of the civil division. In Pinellas County, the Chief Judge (or his/her designee) is hereby designated as the primary Circuit Court Judge of the Civil Division for all forfeiture cases. In Pasco County, the forfeiture cases shall be assigned to any civil section judge in the same manner other circuit civil cases are assigned.

2. Because forfeiture proceedings are civil proceedings, court reporters shall not be provided at county expense. The seizing agency and/or Claimant(s) are responsible for securing the services of and paying the cost of court reporting services.

B. Initial proceedings prior to filing a complaint

Section 932.703, Florida Statutes, recognizes the fact that after a seizure under the Forfeiture Act prior to filing a civil complaint specific events may occur that require court action. During the 45 day time period between the seizure and the deadline for filing a formal civil action there is a requirement under section 932.703(2)(a), Florida Statutes, that the seizing agency apply to the circuit court for an order determining the existence of probable cause. There is also a requirement under section 932.703(3), Florida Statutes, that the agency provide notice of the right to an adversarial preliminary hearing and that such a hearing may be required prior to filing a complaint. To insure an adequate record of these initial documents is maintained and a civil case number is available for these filings the following procedures apply:

Application for an Ex-Parte Order Finding Probable Cause for Seizure

1. Effective July 1, 2016, to obtain a ruling pursuant to section 932.703(2)(a), Florida Statutes, the seizing agency shall, within 10 business days of the seizure, submit an Application for Seizure Probable Cause Determination with an accompanying affidavit to the court for ex-parte review and ruling. The submission packet must include a proposed Order Finding Probable Cause for Seizure and (as an alternative) a proposed Order Denying Probable Cause for Seizure. The Application for Seizure Probable Cause Determination and the proposed orders shall be substantially the same format as *Attachment A* of this Order. In addition to an original order, copies and envelopes should be included for distribution by the judicial assistant.

2. In Pinellas County, the application shall be to the Chief Judge (or his/her designee). In Pasco County the application shall be to the civil judge assigned by the clerk to the action.

3. If there has not yet been a complaint filed or a circuit civil number issued for the action by the Clerk, the seizing agency shall obtain a case number from the Clerk of Court to be used on these papers prior to submission for ex-parte review.

4. After the assigned Judge has made his/her findings, the judicial assistant will file the original Application and the attached affidavit with the Clerk of Court. The original signed Order (regarding the probable cause determination) will also be filed with the Clerk of Court by the judicial assistant and copies will be mailed to the parties using the return envelopes that were provided by the agency.

Notice of Seizure & Right to Adversary Probable Cause Hearing

1. Section 932.703(3), Florida Statutes, includes a right to an adversary preliminary hearing upon request. Pursuant to this statute a specific notice of this right must be provided. All law enforcement agencies within the Sixth Judicial Circuit shall use a Notice of Seizure in substantially the same format as *Attachment B* of this Order.

2. The seizing agency shall complete a Notice(s) of Seizure containing the name and address of the person(s) who may have an interest in the property and who are known to the seizing agency.

3. When any person receiving the notice requests an adversary hearing in conformity with the statute the seizing agency is then required to set and notice a hearing. The seizing agency shall file both the Notice of Seizure & Right to Adversary Probable Cause Hearing and the responding party's Request for Adversary Hearing with the Clerk of Court.

4. If there has not yet been a formal complaint filed or a civil number issued as a result of a prior ex-parte application for probable cause, the Clerk of Court shall assign a civil case number for the proceedings and maintain the documents in a civil file. In Pinellas County the seizing agency shall schedule the Adversary Preliminary Hearing before the Chief Judge (or his/her designee) to be heard within 10 days of the request or as soon as practicable thereafter. In Pasco County the hearing shall be scheduled before the civil judge assigned to the action by the Clerk of Court.

C. Complaint for Forfeiture and § 932.704(5)(c), Florida Statutes, Administrative Order

1. All counsel representing seizing agencies seeking forfeiture in the Sixth Judicial Circuit shall use a Complaint for Forfeiture in substantially the same format as *Attachment C* of this Order.

2. Section 932.704(5)(c), Florida Statutes, indicates the court shall require any claimant who desires to contest the forfeiture to file and serve upon the attorney for the seizing agency any responsive pleading and affirmative defenses within 20 days after the receipt of the complaint. To comply with this provision the court has entered Administrative Order 2016-038 *Notice to Claimant of Seizure and Filing Requirements under Florida Statutes Section 932.704(5)(c)* and counsel for the agency shall include a copy of that order with the complaint and summons to be served upon the claimant. This order advising the claimant of the responsive pleading requirements is included as *Attachment D*.

3. Upon filing of the Complaint, affidavit and payment of the appropriate filing fee and posting a bond pursuant to section 932.704(4), Florida Statutes, to the Clerk of the Court shall cause the opening of a circuit civil proceeding which shall be treated in all regards in like manner.

Attachments to this Administrative Order may be modified without further changes to this Administrative Order.

Administrative Orders 95-97 and PA-CIR 00-20 are hereby rescinded.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida this _____ day of June, 2016.

ORIGINAL SIGNED ON JUNE 22, 2016
BY ANTHONY RONDOLINO, CHIEF JUDGE

Attachment A: Ex- Parte Application for Seizure Probable Cause Determination,
Ex-Parte Order Finding Probable Cause for Seizure and
Ex-Parte Order Denying Probable Cause for Seizure

Attachment B: Notice of Seizure

Attachment C: Forfeiture Complaint

Attachment D: Administrative Order 2016-038 re: Notice to Claimants of Seizure and Filing Requirements

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Lillian Simon, Director of Administrative Services, Pasco County
Nichole Alvarez-Sowles, Chief Operations Officer, Pasco County Clerk's Office
Kimberly Thompson, Director of Criminal Courts, Pasco County Clerk's Office
Law Enforcement Agencies, Pasco and Pinellas
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

IN RE: FORFEITURE OF:

Case No.: _____

(Description of Property)

_____ /

EX-PARTE APPLICATION FOR SEIZURE PROBABLE CAUSE DETERMINATION

COMES NOW the Petitioner, (insert agency), by and through undersigned counsel, pursuant to section 932.703(2), Florida Statutes, and says:

1. On (date) , (insert agency) , seized for forfeiture (describe property) as more fully set forth in the attached Notice of Seizure. This application is being presented within 10 business days of seizing that property.

2. The requirements specified in paragraph (1)(a) of section 932.703, Florida Statutes, have been satisfied based on the fact that one of the following facts exist:

_____ The owner of the property was arrested for a criminal offense that forms the basis for determining that the property is a contraband article under section 932.701, Florida Statutes;

_____ The owner of the property cannot be identified after a diligent search or the person in possession of the property denies ownership and the owner of the property cannot be identified by means that are available to the employee or agent of the seizing agency at the time of the seizure;

_____ The owner is a fugitive from justice or is deceased;

_____ An individual who does not own the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article under section 932.701, Florida Statutes, and the owner of the property had actual knowledge of the criminal activity;

_____ The owner of the property agrees to be a confidential informant as defined in section 914.28, Florida Statutes; or

_____ The property is a monetary instrument.

3. The facts and circumstances surrounding the seizure are contained in the attached affidavit, which is incorporated as if fully set forth herein.

WHEREFORE, Petitioner requests an Order Finding Probable Cause for Seizure pursuant to section 932.703(2), Florida Statutes.

ATTESTATION

I HEREBY ATTEST that a copy of this Motion and attached affidavit has been submitted to the Judge this _____ day of _____, 20__.

Attorney signature block

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

IN RE: FORFEITURE OF:

Case No.: _____

(Description of Property)

_____ /

EX-PARTE ORDER FINDING PROBABLE CAUSE FOR SEIZURE

THIS MATTER having come before this Court pursuant to section 932.703(2), Florida Statutes, within 10 business days of seizure of the above-described property by the _____ *(Seizing Law Enforcement Agency)* and the Court having reviewed the sworn affidavit, FINDS:

1. The Agency applied for the probable cause determination within 10 business days after the date of the seizure.
2. The requirements specified in paragraph (1)(a) of section 932.703, Florida Statutes, have been satisfied based on the fact that one of the following facts exist:

_____ The owner of the property was arrested for a criminal offense that forms the basis for determining that the property is a contraband article under section 932.701, Florida Statutes;

_____ The owner of the property cannot be identified after a diligent search or the person in possession of the property denies ownership and the owner of the property cannot be identified by means that are available to the employee or agent of the seizing agency at the time of the seizure;

_____ The owner is a fugitive from justice or is deceased;

_____ An individual who does not own the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article under section 932.701, Florida Statutes, and the owner of the property had actual knowledge of the criminal activity;

_____ The owner of the property agrees to be a confidential informant as defined in section 914.28, Florida Statutes; or

_____ The property is a monetary instrument.

3. Probable cause exists to seize the above-described property under the Florida Contraband Forfeiture Act.

Therefore the Court having found that the requirements of Florida Statute section 932.703(1)(a) were satisfied and that probable cause exists for the seizure, it is ORDERED that the property shall be held in conformity with the statute until further order of the Court.

DONE AND ORDERED in Chambers, in _____ County, Florida, this ____ day of _____, 20____.

CIRCUIT COURT JUDGE

Copies to:

Attorney for Petitioner
Claimant

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

IN RE: FORFEITURE OF:

Case No.: _____

(Description of Property)

_____ /

EX-PARTE ORDER DENYING PROBABLE CAUSE FOR SEIZURE

THIS MATTER having come before this Court pursuant to section 932.703(2), Florida Statutes, within 10 business days of seizure of the above-described property by the _____ *(Seizing Law Enforcement Agency)* and the Court having reviewed the sworn affidavit, FINDS:

_____ The Agency did not apply for the probable cause determination within 10 business days after the date of the seizure

AND/OR

_____ The requirements specified in paragraph (1)(a) of section 932.703, Florida Statutes, have not been satisfied.

AND/OR

_____ The Agency has not established probable cause for the seizure based on a review of the attached affidavit.

Therefore the Court having found that the requirements of Florida Statute section 932.703(1) were not satisfied and that probable cause does not exist for the seizure, it is ORDERED that any forfeiture hold, lien, lis pendens, or other civil encumbrance shall be released in conformity with the statute within 5 days.

DONE AND ORDERED in Chambers, in _____ County, Florida, this _____ day of _____, 20____.

CIRCUIT COURT JUDGE

Copies to:

Attorney for Petitioner
Claimant

NOTICE OF SEIZURE

REPORT NO.: _____

CASE NO.: _____

DATE: _____

(To be filled in by Clerk of the Court)

TO: _____ *(Claimant's Name)*

ADDRESS: _____

RE: *(Description of Seized Property)* _____

This is to advise you that on Date the Seizing Agency seized the above-referenced property for a violation of the Florida Contraband Forfeiture Act, §§ 932.701–932.7062, Florida Statutes.

YOU ARE HEREBY NOTIFIED that you are entitled by law to request an adversarial preliminary hearing to determine whether there is probable cause to believe the property was used in violation of the Act.

PLEASE NOTE that the adversarial preliminary hearing is not mandatory and you need not request a hearing to later contest the action taken against the property described herein. Each claimant will be given the opportunity to appear in court before final disposition of this matter.

IF YOU DESIRE SUCH A HEARING, you must make a request in writing by certified mail, return receipt requested, to (Name of Seizing Agency) at the address listed below, within fifteen (15) days of receiving this Notice. This request must be accompanied by a copy of this Notice. The seizing agency will notify you of the time, date, and place of that hearing.

I HEREBY CERTIFY that I have:
____ provided a copy of this Notice to the person named above, or
____ forwarded a copy of this Notice by certified mail, return receipt requested, to
____ *(person or entity to which Notice was sent)*
this ____ day of _____, 20____.

Seizing Officer/Person Sending Notice

I HEREBY CERTIFY that I have:
____ received the foregoing Notice apprising me of my right to post-seizure adversarial hearing.

Claimant

(Seizing agency)
(Address)
(Person ID/Fla. Bar Number)
(Telephone Number)
(E-mail Address)

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Human Rights Office, 400 S. Ft. Harrison Ave., Suite 300, Clearwater, FL 33756, (727) 464-4062 (V/TDD) at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

IN RE: FORFEITURE OF:

Case No.: _____

(Description of Property)

_____ /

COMPLAINT FOR FORFEITURE

COMES NOW Complainant, _____, for the use and benefit of the _____, by and through the undersigned attorney, and files this Complaint for Forfeiture under the Florida Contraband Forfeiture Act (the Act), and says:

(1) This is an action for forfeiture pursuant to sections 932.701–932.7062, Florida Statutes; jurisdiction in this Court pursuant to section 932.704, Florida Statutes.

(2) _____ is a seizing agency as set forth in section 932.704, Florida Statutes.

(3) A description of the property that is the subject of this action is as follows:

(Description of all property)

(4) On or about _____ (*date property was used in violation of the Act*), said property was in violation of the Act by virtue of one or more of the following:

a) _____ The property is a contraband article as defined in section 932.701(2)(a), Florida Statutes.

b) _____ The property was used to transport, carry, convey, conceal, or possess a contraband article in violation of section 932.702(1) or (2), Florida Statutes.

c) _____ The property was used to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article, or used as an instrumentality in the commission of or in aiding or abetting in the commission of a felony or violation of the Act, pursuant to sections 932.702(3) and (4), Florida Statutes.

d) _____ The property was acquired by the use of proceeds obtained in violation of the Act in violation of section 932.701 or 932.702(5), Florida Statutes.

e) _____ The property is subject to forfeiture pursuant to:

(This section is for other statutory violations which authorize forfeiture under the Act; e.g., felony littering, VIN-HIN violations, aircraft violations, fleeing in a vessel, etc.)

(5) On or about _____ *(date property was actually seized)*, the _____ *(name of seizing law enforcement agency)* discovered and seized the property described in paragraph 3 above at or near _____ *(address or location where property was seized)*.

(6) The Complainant has conducted a reasonably diligent search for all persons or entities who may have an interest in the property described in paragraph 3 above by virtue of possession, ownership, registration law, or perfected lien, and who are known to the Complainant as:

(names of persons or entities)

and all others who claim an interest in the following described property: *(describe property)*

(7) Complainant has complied with the Notice requirements of the Act.

(8) Pursuant to 932.703(2)(b), Florida Statutes, on _____ *(date)*, the seizing agency submitted an affidavit setting forth the facts and circumstances upon which the seizure was based and which support the forfeiture of the property and obtained an Order Finding Probable Cause for Seizure.

WHEREFORE, _____ *(Name of Petitioner)*, having provided to the persons or entities listed in Paragraph 6 above, and any other persons or entities who claim an interest in the property described in Paragraph 3 above a copy of the *Notice to Claimant Forfeiture of Personal Property*, and after hearing upon the Complaint for Forfeiture, requests this Court to enter a Final Order of Forfeiture perfecting the right, interest, and title to said property for the use or benefit of the _____ *(name of law enforcement agency)*

(Signature of Attorney)

(Name of Attorney)

(Address)

(Telephone Number)

(Person ID/Florida Bar Number)

(E-mail Address)

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2016-038 PA/PI-CIR

**RE: NOTICE TO CLAIMANTS OF SEIZURE AND FILING REQUIREMENTS
UNDER SECTION 932.704(5)(c), FLORIDA STATUTES**

The Florida Contraband Forfeiture Act sets forth the procedural requirements governing the forfeiture of contraband articles. *See* §§ 932.701–932.7062, Florida Statutes. Pursuant to section 943.704(5)(c), Florida Statutes, any claimant who desires to contest the forfeiture action shall file and serve upon the attorney representing the seizing agency any responsive pleadings and affirmative defenses. It is therefore

ORDERED:

THAT YOU HAVE BEEN SERVED WITH A FORMAL COMPLAINT AND AS A PERSON WHO CLAIMS AN INTEREST IN THE SEIZED PROPERTY, YOU HAVE TWENTY (20) DAYS FROM SERVICE OF A COPY OF THE COMPLAINT FOR FORFEITURE TO FILE IN THIS COURT ANY RESPONSIVE PLEADING, ANSWER, AND/OR AFFIRMATIVE DEFENSES TO THE COMPLAINT FOR FORFEITURE.

YOU ARE FURTHER COMMANDED TO SERVE A COPY OF SUCH ANSWER OR RESPONSIVE PLEADING WITHIN SAID TIME PERIOD UPON THE ATTORNEY WHO FILED THE COMPLAINT FOR FORFEITURE. FAILURE TO FILE AND SERVE SUCH ANSWER OR PLEADING WITHIN SAID TIME PERIOD SHALL RESULT IN THE ENTRY OF A DEFAULT PURSUANT TO FLORIDA RULE OF CIVIL PROCEDURE 1.500(a), AND A FINAL ORDER OF FORFEITURE.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida this _____ day of June, 2016.

ORIGINAL SIGNED ON JUNE 22, 2016
BY ANTHONY RONDOLINO, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula O’Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Lillian Simon, Director of Administrative Services, Pasco County
Nichole Alvarez-Sowles, Chief Operations Officer, Pasco County Clerk’s Office
Kimberly Thompson, Director of Criminal Courts, Pasco County Clerk’s Office
Law Enforcement Agencies, Pasco and Pinellas
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties