

Landlord/Tenant Law

For Public Librarians



An Infopeople  Webinar

Janine Liebert
Librarian, Programs & Partnerships
LA Law Library
jliefert@lalawlibrary.org

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12 Noon

Ronnette Ramos
Managing Attorney
Legal Aid Foundation of Los Angeles
Ramos@lafla.org



Agenda

- Provide a general overview of landlord - tenant law matters and the eviction process
- Become familiar with key terminology in landlord - tenant law matters
- Tour the California Court's self-help center's sections on evictions and housing
- Learn about additional print and online resources addressing landlord – tenant issues

Landlord-Tenant Overview

- Rights and responsibilities of CA tenants and landlords
- What is a UD?
 - CA Laws
- Eviction Process
 - Timeline
 - Types of Notices
 - Pleadings and Responses
- Most Commonly used UD Defenses
- Foreclosure
- Security Deposits

Tenant's Legal Rights and Responsibilities

- Pay Rent
- Take reasonable care of the rental unit
- Repairs
- Limits on the Landlord's right of entry
- Security deposit limits
- Time to return security deposit
 - Itemized accounting

Tenant's Legal Rights and Responsibilities

- Repair and deduct
- Withhold rents
- Sue for damages
- Right to warranty of habitability
- Protection against retaliatory eviction

Refund of Security Deposits

- Allowable deductions:
 - Unpaid rent
 - Cleaning the rental unit when tenant moves out
 - Repair of damages other than normal wear and tear
 - If the lease allows for cost of restoring or replacing personal property (such as keys or furniture)
- 21 calendar days or less after tenant moves out
 - Send tenant a full refund of security deposit OR
 - Mail or personally deliver an itemized statement
- If Landlord does not provide refund
 - Tenant can call or request a refund
 - Tenant can sue in small claims court

Landlord's Responsibilities

- Implied covenant of quiet enjoyment
- Landlord must make the unit fit to live in, or habitable
- Landlord must repair problems that make the rental unit unfit to live in or uninhabitable

What is an Unlawful Detainer?

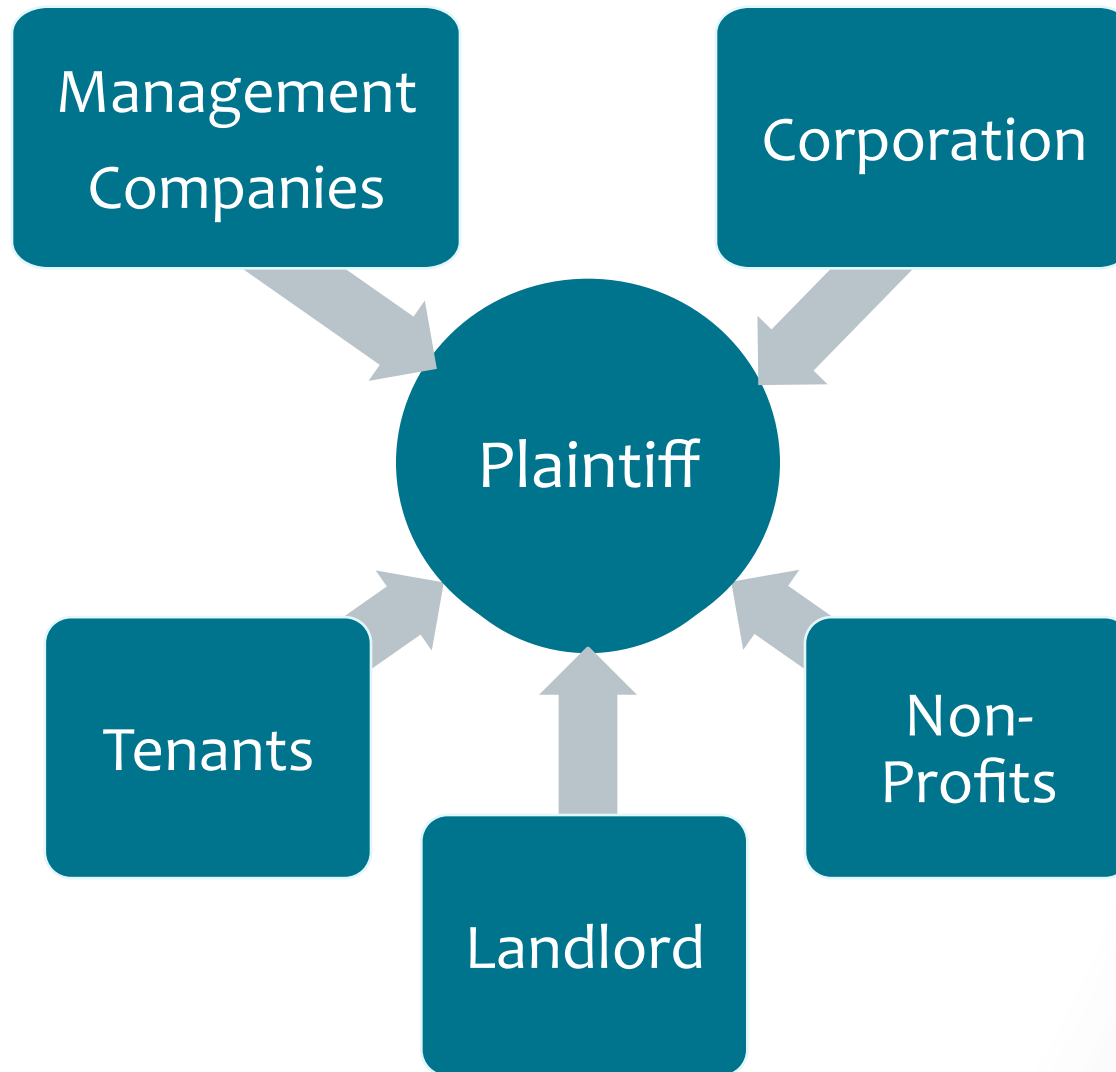
- Statutory procedure defined under California Code of Civil Procedure §1161-1179a
- Lawsuit that a landlord must file and win before he or she can evict a tenant
- Also called an eviction lawsuit

Rent Control

- Protections:
 - Rent increases are limited on a yearly basis
 - Greater Tenant Protections
- Cities with Rent Control
 - Berkeley
 - Beverly Hills
 - East Palo Alto
 - Glendale
 - Hayward
 - Maywood
 - Los Angeles
 - Oakland
 - Palm Springs
 - Richmond
 - Ridgecrest
 - San Diego
 - San Francisco
 - Santa Monica
 - Thousand Oaks
 - West Hollywood

Who are the Parties
Involved in an Unlawful
Detainer?

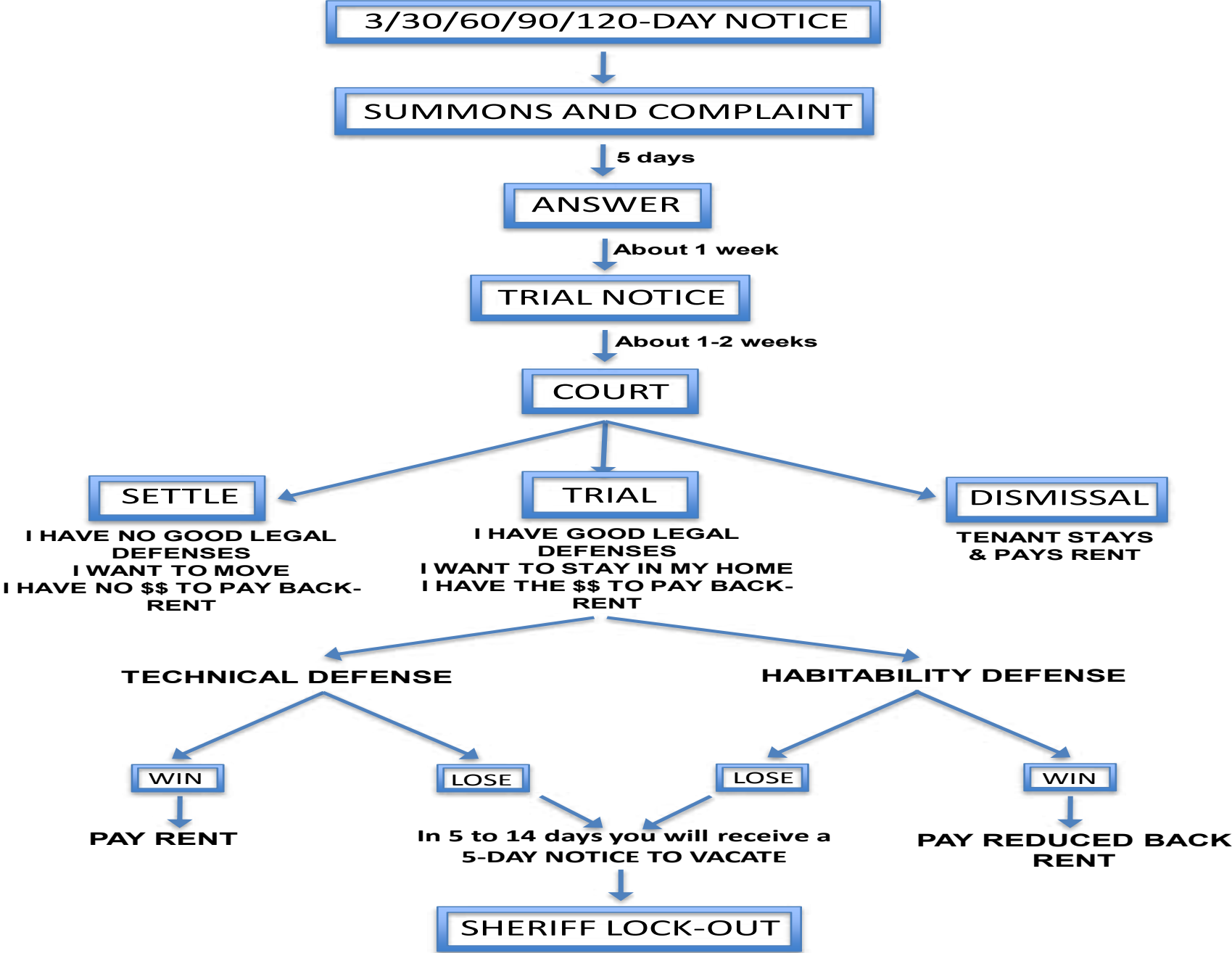
Plaintiffs in Unlawful Detainers



Defendants in Unlawful Detainers



THE UNLAWFUL DETAINER (EVICTION) PROCESS



Notices to Terminate a Tenancy

No Cause / Fault Notices

- 30/60/90-day notice to vacate
 - Non-rent control properties
- 90-day notice
 - Government subsidized housing

For Cause Evictions

- Three-day notice to pay rent or quit
- Three day notice to cure or quit
- Three-day notice to quit

Step 1: Eviction Notice Stage

Notice must be
WRITTEN

STRICT COMPLIANCE
with CCP 1161 notice
requirements

Time for compliance
begins to run the day
after notice is served

THREE DAY NOTICE TO PAY RENT OR QUIT

TO: **Joseph Resident**

AND ALL OTHERS IN POSSESSION:

YOU ARE HEREBY NOTIFIED that pursuant to the lease or rental agreement under which you hold the possession of the hereinafter described premises, there is now due and unpaid rent in the total sum of:

One Thousand One Hundred (\$ 1,100)

representing rent due from **March 1st** through **March 31st**

YOU ARE FURTHER NOTIFIED that within Three (3) days after service of this Notice on you, you must pay the amount of said rent in full or quit said premises and deliver up possession of the same to the landlord/agent or the landlord/agent will institute legal proceedings for an unlawful detainer against you to recover possession of said premises, to declare said lease or rental agreement forfeited and to recover rent and damages.

YOU ARE FURTHER NOTIFIED that by this Notice the landlord/agent elects to and does declare a forfeiture of said lease or rental agreement if said rent is not paid in full within the said three (3) days. The premises are located at:

2424 Sunny Lane Pl. #3, Los Angeles, CA 90006

Date: **3/26/11** LANDLORD/AGENT **Sheila Manager**

Person to Pay: **Sunny Lane Place, Inc.**

Address to pay: **2424 Sunny Lane Place, Manager's Office #1**

Phone Number: **(213) 121-1212** (Payment may be made at any time within the time stated. (Monday through Saturday 8:30 AM through 5:30 PM)

*This form was created by The Law Firm of Dennis P. Block and Associates
www.evict123.com (See Other Forms)*

Los Angeles (323) 938-2868 Inglewood (310) 673-2996 Echo Park (310) 986-3147

Long Beach (562) 434-5000 Pasadena (626) 798-1014 San Bernardino (909) 877-6565

Ventura (805) 653-7264 Orange (714) 634-8232 Fax (323) 938-6069 Fax (714) 634-4633

If you need assistance in filling out this form, please consult with an attorney.

Three-Day Notice to Pay Rent or Quit

- For when tenant is behind on the rent
- Three days begins on the first day after service of the notice
- If the third day falls on a Saturday, Sunday or legal holiday – the three-day period will not expire until the following Monday or non-holiday

THREE-DAY NOTICE TO PAY OR QUIT
(NONPAYMENT OF RENT)

TO: _____ (Tenants, Subtenants, Occupants in Possession)

PLEASE TAKE NOTICE that within three (3) days after service of this notice upon you, you are required to pay the rent now due and owing on the premises located at _____ (address), in the amount of _____ representing the rent due for the month(s) of: _____ (month/year) \$ _____ (monthly amount owed)
_____ (month/year) \$ _____ (monthly amount owed)
_____ (month/year) \$ _____ (monthly amount owed)
Total amount owed: \$ _____

Within three (3) days after service of this notice upon you, the total overdue rent payment, in the amount stated above, must be made payable by cash or check, payable to: _____ (payee's name) and must be delivered to _____ (landlord or landlord's agent/manager) at _____ (address and telephone number). He/She will be available to receive the payment personally _____ (days) between the hours of _____ and _____ (hours/time).

IN THE ALTERNATIVE, you are required to vacate and deliver the premises to _____ (landlord or landlord's agent/manager) within three (3) days after service of this notice upon you.

If you fail either to pay the amount of rent demanded in this notice or to vacate and deliver the premises to the person designated above within three (3) days, the undersigned will commence legal proceedings against you to 1) declare a forfeiture of your rental agreement/ lease, 2) recover possession of the premises, 3) recover the rent demanded herein, due for the periods covered by this notice, and 4) recover damages for each day that you occupy the premises after the periods covered by this notice and costs of suit.

Further, if you fail to timely pay the amount demanded by this notice, the undersigned declares the forfeiture of the rental agreement/ lease under which you hold possession of the premises.

Dated: _____ (signature)

Landlord's name, address,
and phone number

Three-Day Notice to Cure or Quit

- For when tenant is violating terms of the lease or rental agreement, other than nonpayment of rent, and the problem can be fixed
- Must specify violation
- Written lease agreement must exist

THREE-DAY NOTICE TO CURE OR QUIT (BREACH OF COVENANT)

TO: _____ (Tenants, Subtenants, Occupants in Possession)

PLEASE TAKE NOTICE that you have violated the following covenant of your apartment rental agreement/lease dated _____, for the premises located at: _____ (address).

- (1) Paragraph _____, which provides the premises shall not be occupied in whole or part by any person other than the renter/lessee, _____ (name). This covenant has been violated in that some unknown individual has been residing in the subject premises without the landlord's consent.
- (2) Paragraph _____, which provides no dog shall be kept within or about the subject premises without the landlord's written consent. This covenant has been violated in that a dog has been and maintained in the subject premises.
- (3) Paragraph _____, which maintains the subject premises shall not be sublet or assigned to a third party without the landlord's express written consent. This covenant has been violated...

If each of the failed covenants is not cured within three (3) days after service of this notice upon you, the undersigned will commence legal proceedings against you to 1) declare a forfeiture of your rental agreement/ lease, 2) recover possession of the premises, and 3) recover damages for each day that you occupy the premises after the periods covered by this notice and costs of suit.

Dated: _____ (signature)

Landlord's name, address,
and phone number

Three-Day Notice to Quit

- For when tenant is violating terms of the lease or rental agreement, other than nonpayment of rent, and the problem cannot be fixed:
 - committing “waste”
 - creating a nuisance on the premises
 - Illegal use

THREE-DAY NOTICE TO QUIT
(MAINTAINING A NUISANCE/ CREATING WASTE/ ILLEGAL ACTIVITY)
TO: _____ (Tenants, Subtenants, Occupants in Possession)

PLEASE TAKE NOTICE that at the expiration of three (3) days after service of this notice upon you, you are hereby requested to quit, and deliver upon the premises now held and occupied by you, being the premises located at: _____ (address).

The reason for terminating your tenancy is as follows:

You are committing or permitting to exist a nuisance in the rental unit and to the common areas of the complex containing the rental unit, and are creating and unreasonable interference with the comfort, safety and enjoyment of any of the other residents of the building.

_____(date): _____ (incident)
_____(date): _____ (incident)
_____(date): _____ (incident)

Witnesses: _____ (other tenants' names)

If you fail to vacate and deliver the premises to the person designated above within three (3) days, the undersigned will commence legal proceedings against you to 1) recover possession of the premises and 2) recover damages for each day that you occupy the premises after the periods covered by this notice and costs of suit.

Dated: _____ (signature)

Landlord's name, address,
and phone number

Tenant Defenses for Defective Notice

Pay or Quit Notice:

- Rent is not due
- Includes late fees
- Demands more rent than tenant owes
- Fails to state specific information pursuant to C.C.P. §1161(2)
- Fails to state amount due

Perform or Quit Notice:

- Fails to state how to cure alleged violation
- No written lease
- Not in the alternative and breach is “curable”

Applies to all:

- Does not declare a forfeiture of the lease
- Defective service of notice

Service of Notice

- Notice may be served upon the Tenant in one of three ways:
 - Personally
 - Leaving a copy with a person of suitable age and sending a copy by mail
 - Nail and mail

Step 2: The Unlawful Detainer

The court eviction process begins by filing a summons and complaint

Named Defendant(s) must be served a copy of the summons and complaint

The Court will mail out a Notice stating that UD lawsuit has been filed

SUM-130

**SUMMONS
(CITACION JUDICIAL)
UNLAWFUL DETAINER-EVICTION
(RETENCIÓN ILÍCITA DE UN INMUEBLE-DESALOJO)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
JOSEPH RESIDENT
DOES 1 TO 10 INCLUSIVE

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
SUNNY LANES APARTMENTS, INC.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegerá. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le de un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

1. The name and address of the court is:
(El nombre y dirección de la corte es):

STANLEY MOSK COURTHOUSE
111 N. HILL STREET
LOS ANGELES, CA 90012

CASE NUMBER:
(Número de caso)
09H112121

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Javier McShady (SBN: 350213)
1000 WILSHIRE BLVD., Suite 1000
LOS ANGELES, CA 90057

CENTRAL DISTRICT
LAW OFFICES OF MCSHADY & MCSHADY
(213)121-1212

3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400-6415) did not did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date: _____ Clerk, by _____, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

4. **NOTICE TO THE PERSON SERVED:** You are served

[SEAL]

a. as an individual defendant.

b. as the person sued under the fictitious name of (specify):

c. as an occupant

d. on behalf of (specify):

under: CCP 416.10 (corporation) CCP 416.60 (minor)

CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)

CCP 416.40 (association or partnership) CCP 416.90 (authorized person)

CCP 415.46 (occupant) other (specify):

5. by personal delivery on (date):

The Complaint:

States landlord's basis for the eviction

Eviction Notice must be attached to the complaint, C.C.P. § 1166

Attorneys can use their own pleadings

UD-100	
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Javier McShady (SBN: 350213) LAW OFFICES OF MCSHADY & MCSHADY 1000 WILSHIRE BLVD., Suite 1000 LOS ANGELES, CA 90057 TELEPHONE NO.: (213) 121-1212 FAX NO. (Optional): (213) 121-1213 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): SUNNY LANES APARTMENTS, INC.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. HILL STREET MAILING ADDRESS: CITY AND ZIP CODE: LOS ANGELES, CA 90012 BRANCH NAME: CENTRAL	
PLAINTIFF: SUNNY LANES APARTMENTS, INC. DEFENDANT: JOSEPH RESIDENT	
<input checked="" type="checkbox"/> DOES 1 TO 10	CASE NUMBER: 09U12121
<input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Amendment Number): _____	
Jurisdiction (check all that apply): <input checked="" type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input checked="" type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000 <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check all that apply): <input type="checkbox"/> from unlawful detainer to general unlimited civil (possession not in issue) <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlawful detainer to general limited civil (possession not in issue) <input type="checkbox"/> from unlimited to limited	

1. PLAINTIFF (name each): SUNNY LANES APARTMENTS, INC.

alleges causes of action against DEFENDANT (name each):
JOSEPH RESIDENT

2. a. Plaintiff is (1) an individual over the age of 18 years. (4) a partnership.
(2) a public agency. (5) a corporation.
(3) other (specify):
b. Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):

3. Defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):
2424 Sunny Lane Place #3, Los Angeles, CA 90006

4. Plaintiff's interest in the premises is as owner other (specify):

5. The true names and capacities of defendants sued as Does are unknown to plaintiff.

6. a. On or about (date): 3/20/2010 defendant (name each):
JOSEPH RESIDENT

- (1) agreed to rent the premises as a month-to-month tenancy other tenancy (specify):
(2) agreed to pay rent of \$ 1,050 payable monthly other (specify frequency):
(3) agreed to pay rent on the first of the month other day (specify):
b. This written oral agreement was made with
(1) plaintiff. (3) plaintiff's predecessor in interest.
(2) plaintiff's agent. (4) other (specify):

*NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).

Form Approved for Optional Use
Judicial Council of California
UD-100 (Rev. July 1, 2006)

COMPLAINT - UNLAWFUL DETAINER

Page 1 of 3

Civil Code, § 1949 et seq.
Code of Civil Procedure, §§ 425.12, 1168
www.courtinfo.ca.gov

ESSENTIAL FORMS™

Common Defective Complaint Defenses

- Notice not attached
- Lease not attached:
 - Cases not based on failure to pay rent.
- Tenant named but incorrect address
- Improper Plaintiff:
 - Plaintiff must have some right of possession to the property either as the owner or agent of the owner

How to Respond to an Unlawful Detainer Complaint

Responsive Pleadings

- **Answer**
 - General denial or deny each allegation in the complaint
 - Technical and factual defenses
 - If in doubt, raise the defense, otherwise it is waived
- **Pre-Judgment Claim of Right to Possession**
 - If tenant is in possession and not named on complaint
- **Demurrer**
 - Plaintiff failed to state a cause of action
 - Complaint is unclear
- **Motion to Quash Service of the Summons**
 - Improper service of the summons and complaint

Step 3: Filing a Response

5 DAYS to file an answer

Fail to file an answer, a default judgment will be entered and tenant will have to vacate

Answering defendant must claim defense(s) to complaint's allegations

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): JAVIER BELTRAN (SBN: 240416) INNER CITY LAW CENTER 1309 E. 7TH STREET LOS ANGELES, CA 90021		TELEPHONE NO.: T: (213) 891-2880 F: (213) 891-2888	FOR COURT USE ONLY
ATTORNEY FOR (Name): JOSEPH RESIDENT			
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. HILL STREET MAILING ADDRESS: CITY AND ZIP CODE: LOS ANGELES, CA 90012 BRANCH NAME: CENTRAL			
PLAINTIFF: SUNNY LANES APARTMENTS, INC.			
DEFENDANT: JOSEPH RESIDENT			
ANSWER - Unlawful Detainer		CASE NUMBER: 09U12121	

1. Defendant (names): JOSEPH RESIDENT

answers the complaint as follows:

2. Check **ONLY ONE** of the next two boxes:

a. Defendant generally denies each statement of the complaint. (Do not check this box if the complaint demands more than \$1,000).

b. Defendant admits that all of the statements of the complaint are true EXCEPT

(1) Defendant claims the following statements of the complaint are false (use paragraph numbers from the complaint or explain):

Continued on Attachment 2b(1).

(2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (use paragraph numbers from the complaint or explain):

6 (a) (2); 6 (b); 7 (a) (1); 7 (b) (1) and (2); 8 (a) (3); 10; 11

Continued on Attachment 2b(2).

3. AFFIRMATIVE DEFENSES (NOTE: For each box checked, you must state brief facts to support it in the space provided at the top of page two (item 3j).)

a. (nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.

b. (nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.

c. (nonpayment of rent only) On (date): , before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.

d. Plaintiff waived, changed, or canceled the notice to quit.

e. Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.

f. By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or laws of the United States or California.

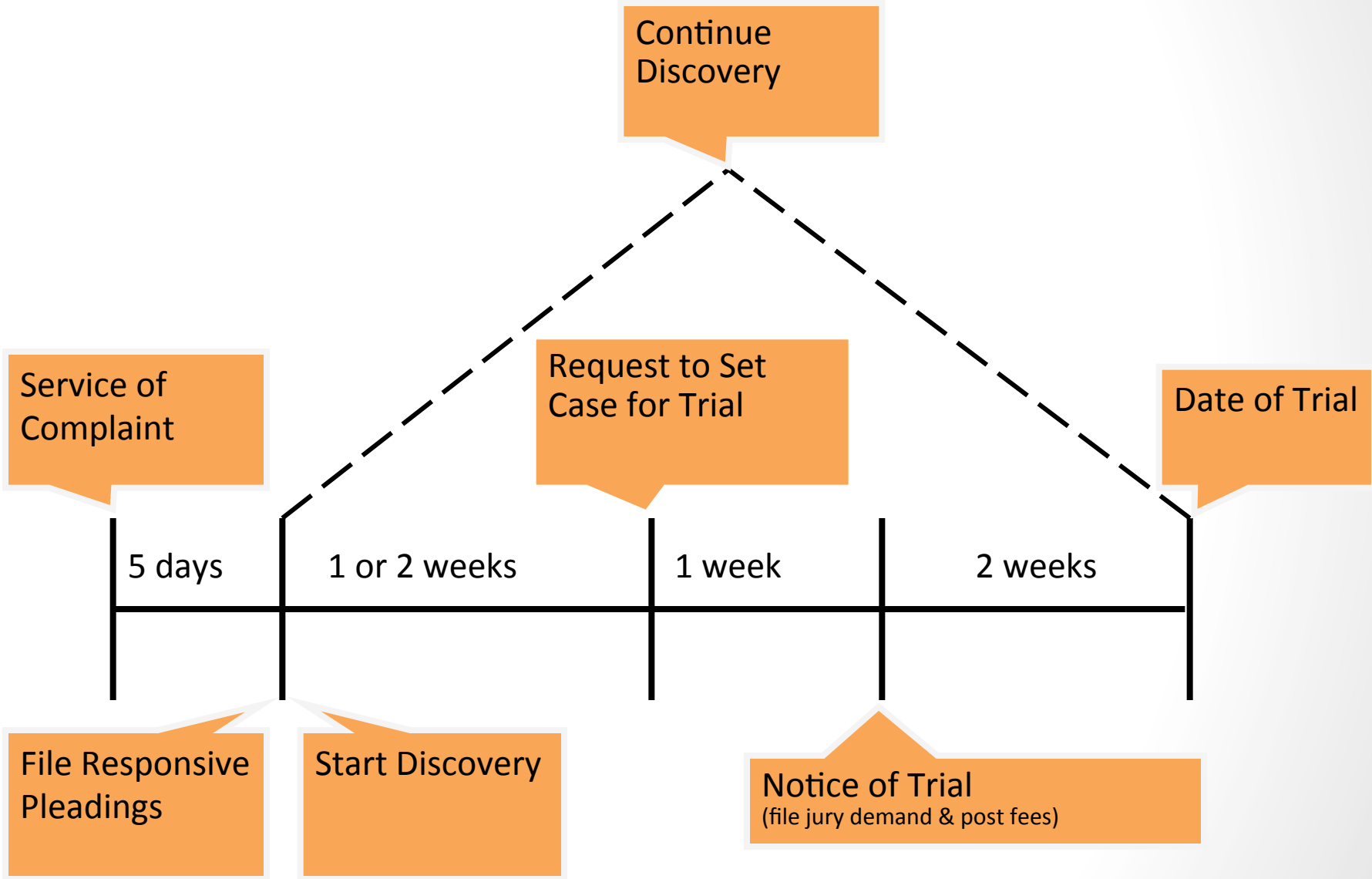
g. Plaintiff's demand for possession violates the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage): LAMC 151.00 et seq., LOS ANGELES RENT STABILIZATION ORDINANCE

(Also, briefly state the facts showing violation of the ordinance in item 3j.)

h. Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.

i. Other affirmative defenses are stated in item 3j.

Timeline for Trial



Pre-Trial Considerations

- **Jury Trial Demand:**
 - Must be **filed within 5 days** of the Notice of Trial date (C.C.P. § 631(d)(4))
 - Jury Fees: \$150 at least **5 days before trial**
- **Motion for Summary Judgment (C.C.P. § 437c):**
 - No triable issue of material fact
 - Defendant must show Plaintiff does not have a cause of action
 - Filed upon 5 days notice (C.C.P. § 1170.7) and opposition may be filed 1 day before or on hearing day.
- **Trial Date:**
 - Request to Set Case for Trial
- **Discovery:**
 - See Next Slide

Discovery and Unlawful Detainers

Civil Discovery Act C.C.P. § 2016 et seq.

Types of Discovery:

- **Written Interrogatories**
 - Form (UD-106)
 - Special Interrogatories
- **Demand for Production of Documents**
- **Request for Admissions**
- **Depositions**
 - Scheduled w/in 5 days of the Notice but no later than 5 days before Trial

Time Limitations:

- Discovery completed 5 days before the date of Trial
- Responses due w/in 5 days for personal service, 10 days for mailing
- Motions to Compel may be filed at any time upon 5 days notice

Commonly Used Tenant Defenses

- **Waiver of Notice to Quit**
 - Generally: Affirmative defense if landlord accepts rent to cover a period of time after the termination date stated in the notice
- **Estoppel**
 - Generally: Tenant must have relied on the landlord's conduct and was injured by it
- **Breach of the Warranty of Habitability**
 - What is a breach?
 - Proof of a substantial breach
- **Retaliatory Eviction**
- **Discrimination**

After the Court's Ruling

- If tenant wins
 - Tenant will not have to move and pay back rent
 - Landlord may be ordered to pay court costs
- If landlord wins
 - Court issues Writ of Possession
 - Service of Writ and posting of 5 day Notice to Vacate
 - Sheriff will remove all occupants

Default Judgment if Tenant Fails to File Answer within Five Days

- Default judgment entered in favor of landlord
- Writ of possession
- Service of writ and posting of five day Notice to Vacate
 - To request additional time, tenant must file Stay of Execution with the court
- Sheriff will remove all occupants
- Setting aside default judgment requires proof of mistake, inadvertence, excusable neglect

Abandoned Personal Property Left in a Rental Unit

- California law has specific steps to follow to get possessions returned
 - Civil code § 1951.3
 - Identify and value the property left behind
 - Send possible owners notice
- If tenant does not respond to Notice
 - Property worth less than \$750 = Landlord
 - Property worth more than \$750 = auction
- Notice of Right to Reclaim Personal Property

Protecting Tenants at Foreclosure Act

- Applies to all residential properties foreclosed after 5/20/2009
- Does not preempt local and state laws that offer additional protections
- 90-Day Notice required unless lease term not yet expired
- Must be “bona fide” tenant.
- Section 8 Tenants: new owner subject to lease and contract with PHA

Online Resources for Locating Information, Forms and Referrals

California Courts – Online Self-Help Center

<http://www.courts.ca.gov/>



The screenshot shows the California Judicial Branch website. At the top, a navigation bar includes links for Courts, Self-Help (circled in red), Forms & Rules, Opinions, Programs, and Policy & Administration. Below the navigation bar is a welcome message: "Welcome to the California Judicial Branch. Committed to providing fair and equal access to justice for all Californians." A small image of the Tulare County Courthouse is visible in the background. Below the welcome message, there are two tabs: "GENERAL PUBLIC" and "LEGAL COMMUNITY". Under the "LEGAL COMMUNITY" tab, the "Online Self-Help Center" link is circled in red. The description for this link is "Find information, tools, and resources to help resolve many common legal issues." Below this, there is a "Jury Service" link with the description "Learn all about jury basics or find links to your local court. For employers, learn about how you can support jury service." To the right of these links is a "QUICK LINKS" section with three items: "Amnesty Program for Traffic Tickets", "Court-Related Legislation", and "Invitations to Comment".

Judicial Branch Home

Courts **Self-Help** Forms & Rules Opinions Programs Policy & Administration

Welcome to the California Judicial Branch
Committed to providing fair and equal access to justice for all Californians.

Tulare County Courthouse

GENERAL PUBLIC LEGAL COMMUNITY

Online Self-Help Center
Find information, tools, and resources to help resolve many common legal issues.

Jury Service
Learn all about jury basics or find links to your local court. For employers, learn about how you can support jury service.

QUICK LINKS

Amnesty Program for Traffic Tickets

Court-Related Legislation

Invitations to Comment

California Courts – Online Self-Help Center

<http://www.courts.ca.gov/selfhelp.htm>



- For each case type, provides basic information about applicable law
- Outlines steps in court process
- Forms presented within informational context
- Instructions for completing each form

“Getting Started”

California Courts Online Self-Help Center

<http://www.courts.ca.gov/1002.htm>

Self-Help

Getting Started

- » Court Basics
- » Lawyers and Legal Help
- » **Preparing for Court**
 - Before You File Your Case
 - Filing Papers in Court
 - Fee Waivers
 - Service of Process
 - Discovery
 - Going to Court
 - Court Interpreters
 - Preparing for Court FAQs
- » Researching the Law
- » Resolving Your Dispute Out of Court
- » More Topics
- » FAQs

Small Claims

Families & Children

Divorce or Separation

Abuse & Harassment

Preparing for Court

Find information about the different steps you will have to take when you go to court. Learn what you need to do before you file your papers in court, how to prepare your case, and how to present your case in court. And read answers to frequently asked questions you may have about any of these topics.

Before You File Your Case

Find out how to make sure you are filing your case against the right party and in the right court. Learn about deadlines for filing your case. And find out how to resolve your case without having to go in front of a judge.

Filing Papers in Court

Get general information about what you need to do to file papers with the court.

Fee Waivers

Learn how to ask for a fee waiver when you cannot afford to pay the court filing fees.

Service of Process

“Service of process” is a key part of every case that is handled in court. Learn all the different ways to serve the other side in your case, when they are allowed, and what is required for each type of service. Also learn about steps you can take to find someone in order to serve him or her.

“Eviction and Housing”

California Courts Online Self-Help Center

<http://www.courts.ca.gov/selfhelp-housing.htm>

The screenshot shows the California Courts Online Self-Help Center website. At the top, there is a navigation bar with the following tabs: Courts, Self-Help, Forms & Rules, Opinions, Programs, and Policy & Administration. The 'Self-Help' tab is currently selected. Below the navigation bar, the breadcrumb trail reads 'Self-Help > Eviction & Housing'. On the left side, there is a 'Self-Help' sidebar menu with the following items: Getting Started, Small Claims, Families & Children, Divorce or Separation, Abuse & Harassment, Eviction & Housing (which is expanded to show a list of sub-topics: Eviction, Foreclosure, Security Deposits, and FAQs), Name Change, Traffic, and Seniors & Conservatorship. The main content area is titled 'Eviction & Housing' and contains the following text: 'Access information about evictions, foreclosures, and security deposits. Find instructions, forms, and answers to frequently asked questions.' Below this, there are three sections: 'Evictions (Unlawful Detainer)' with a sub-header and a paragraph describing guides for landlords and tenants; 'Foreclosure' with a sub-header and a paragraph describing information and resources; and 'Security Deposits' with a sub-header and a paragraph describing information about security deposits and legal reasons for a landlord to keep them. At the bottom of the main content area, there is a section titled 'RELATED INFORMATION'.

Judicial Branch Home

Courts Self-Help Forms & Rules Opinions Programs Policy & Administration

Self-Help > Eviction & Housing

Self-Help

- Getting Started
- Small Claims
- Families & Children
- Divorce or Separation
- Abuse & Harassment
- Eviction & Housing**
 - » Eviction
 - » Foreclosure
 - » Security Deposits
 - » FAQs
- Name Change
- Traffic
- Seniors & Conservatorship

Eviction & Housing

Access information about evictions, foreclosures, and security deposits. Find instructions, forms, and answers to frequently asked questions.

Evictions (Unlawful Detainer)
Learn about the eviction process with a guide for landlords, a guide for tenants, detailed instructions, forms, and resources.

Foreclosure
Find information and resources regarding the foreclosure process.

Security Deposits
Learn about security deposits, what are valid legal reasons for a landlord to keep all or part of a security deposit, and how to go to court to ask for the return of a security deposit.

RELATED INFORMATION

Forms

 [Print](#)  [Español](#)

FORMS - EVICTION (UNLAWFUL DETAINER)

You may not need all of these forms. Or you may need more forms. If you are not sure which forms to use, talk to a lawyer. Click for [help finding a lawyer](#). If your court's [self-help center](#) helps with evictions, you can also ask them for help.

NOTE: All California courts use the same basic set of forms. But some courts have special, local forms, too. To see if you will need any special, local forms, contact your court clerk or check [your court's website](#). The forms may be posted on their site. If not, the site will list the address and phone number of your local courthouse.

To download a form (in PDF format), click on the form number in the table below.

Form Name	Form Number
<i>Summons — Unlawful Detainer — Eviction</i>	SUM-130 
<i>Complaint — Unlawful Detainer</i>	UD-100   (Instructions)  
<i>Civil Case Cover Sheet</i>	CM-010 
<i>Proof of Service of Summons</i>	POS-010 
<i>Answer — Unlawful Detainer</i>	UD-105   (Instructions)  
<i>Request for Entry of Default</i>	CIV-100 
<i>Declaration for Default Judgment by Court (Unlawful Detainer — Code Civ. Proc., § 585(d))</i>	UD-116 

Foreclosures - <http://www.courts.ca.gov/1048.htm>

Self-Help

Getting Started

Small Claims

Families & Children

Divorce or Separation

Abuse & Harassment

Eviction & Housing

» Eviction

» **Foreclosure**

▪ Foreclosure FAQs

» Security Deposits

» FAQs

Name Change

Traffic

Seniors & Conservatorship

Problems With Money

Criminal Law

Civil Appeals

Self-Help Glossary

Rights of Tenants During a Foreclosure

If there are tenants in the house that was foreclosed on and if they are in good standing and the home went into foreclosure through no fault of theirs, the new owner must honor the existing lease. BUT when the tenants have a month-to-month lease or the owner/landlord also lives in the home that is being foreclosed on, the new owner can evict the tenants or former owner/landlord. In these cases, the new owner may either (1) offer the existing tenants a new lease or rental agreement or (2) begin eviction proceedings. If the new owner chooses to evict existing tenants (other than the former owner), the new owner must give the tenants at least 90 days' notice before starting eviction proceedings.

- There are other rights that tenants have in eviction cases done after a foreclosure. If a tenant is not named in the complaint for the eviction, he or she may be able to challenge the eviction at any time during the case or even after the judgment for eviction is made. If you are an occupant of a foreclosed property where the new owner filed an eviction case, [talk to a lawyer](#) or call the [Tenant Foreclosure Hotline](#) ☎ at 1-888-495-8020 to learn about your rights.

Tenants in some California cities may still have a right to stay in their buildings. [Cities with eviction or rent control laws](#) ☎ prohibit new owners from using foreclosure as a reason for evicting tenants.

Note: If you are a tenant and want to find out if the place you rent is in foreclosure, you can record, in your [county recorder's office](#) ☎, a form called a Request for Notice, asking that you be notified of any foreclosure proceedings. This way you, as the tenant, will receive a copy of the Notice of Default and Notice of Sale and know the status of the foreclosure. You can buy a Request for Notice at stores that sell legal forms or get 1 from the customer service department of a title company.

Help for tenants during a foreclosure

There are resources for tenants to get more information about their options. Read [Tenant's Rights in Foreclosed on Properties](#) ☎ ☎. Tenants may also call the [Tenant Foreclosure Hotline](#) ☎ at 1-888-495-8020.

Security Deposits – Demand Letter

<http://www.courts.ca.gov/1230.htm>

The screenshot shows the California Courts website navigation menu. The 'Self-Help' tab is selected. The breadcrumb trail is: [Self-Help](#) > [Small Claims](#) > [Suing Someone](#) > [Write a demand letter asking your landlord to return a security deposit](#). The 'Small Claims' link in the breadcrumb is circled in red. In the left sidebar, the 'Self-Help' section is expanded, and 'Small Claims' is circled in red. Below 'Small Claims' are several sub-links, including 'Steps to Filing a Small Claims Case', 'Change Your Claim or Court Date', and 'Plaintiff's Post-Trial Checklist'. The main content area displays a 'Welcome!' message and a 'Next' button.

Courts **Self-Help** **Forms & Rules** **Opinions** **Programs** **Policy & Ad**

[Self-Help](#) > [Small Claims](#) > [Suing Someone](#) > [Write a demand letter asking your landlord to return a security deposit](#)

Self-Help

Getting Started

Small Claims

- » Basics
- » **Suing Someone**
 - Steps to Filing a Small Claims Case
 - Change Your Claim or Court Date
 - Plaintiff's Post-Trial Checklist
- » Being Sued
- » Research Your Case
- » Mediation
- » Going to Court
- » Collect Your Judgment
- » Pay Your Judgment
- » Appeals
- » Forms
- » FAQs

Welcome!

This program will help you write a demand letter asking your landlord t

This program asks questions and then prepares a letter for you to sen

If you don't know the answer to a question, you can stop and find the ar
change your answer later.

Next

Landlord-Tenant Legal Guides

Dept. of Consumer Affairs Website

http://www.dca.ca.gov/publications/legal_guides/index.shtml

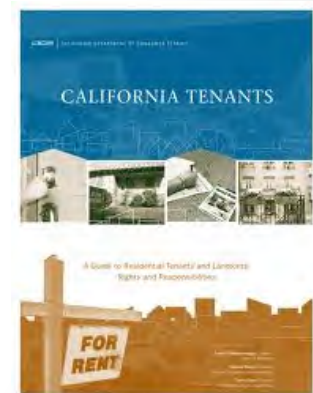
California Tenants – A Guide to Residential Tenants’ and Landlords’ Rights and Responsibilities

How to Get Possessions Back You Have Left in a Rental Unit

Options for a Landlord: When a Tenant’s Personal Property Has Been Left in the Rental Unit

**Landlords and Tenants Responsibilities
For Habitability and Repairs**

Rent Increases: Basic Information for Tenants



Online Resources – California State Bar

<http://www.calbar.ca.gov/Public/LegalInformation/AboutFamily.aspx>



March 09, 2013

THE STATE BAR OF CALIFORNIA

HOME ATTORNEYS PUBLIC FUTURE LAWYERS ABOUT US

- ▶ Attorney Complaints
- ▶ Consumer Information
- ▶ Attorney Search
- ▶ Client Security Fund
- ▶ FAQ
- ▶ Forms
- ▶ **Lawyer Referral Services (LRS)**
- ▶ Legal Information
- ▶ Pamphlets
- ▶ Tips

Home > Public > Legal Information > About Housing

HOUSING

PUBLICATIONS

- What Should I Know Before I Rent?



LINKS

- Landlord/Tenant
- Housing
- Foreclosure in California
- U.S. Dept. of Housing & Urban Development

Law HelpCA.org

www.lawhelpca.org

LawHelpCA.org

Helping Californians find legal aid & self-help resources

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Find Legal Information

Find a Lawyer or Court Program

Search

GO

- Click a topic below for legal help and information.
- [Click here](#) for criminal matters.
- [Click here](#) to get California court forms.



- Set your location

Please enter a city, county, or zip code

SET

Housing



Homelessness
Homeownership
Housing Discrimination
[More issues >](#)

Families and Kids



Adoption
Child Support
Custody/Visitation
[More issues >](#)

Public Benefits



Child Care / Foster Care
Disability and Public Benefits
Emergency Assistance
[More issues >](#)

Protection from Abuse



Child Abuse/Neglect
Domestic Violence
Elder Abuse
[More issues >](#)

Health



Control Over Health Care Decisions
Health Insurance
Medi-Cal
[More issues >](#)

Consumer & Small Claims



Bankruptcy
Cars
Contract and Warranty Problems
[More issues >](#)

Disability



Assistive Technology
Disability and Public Benefits
Education Rights
[More issues >](#)

Veterans and Military



Appeals
Citizenship through Military Service
Disabled Veterans
[More issues >](#)

Seniors

60+

Elder Abuse
IHSS (In-Home Supportive Services)
Medicare
[More issues >](#)

More Issues: [Work, Individual & Civil Rights](#), [Immigration](#), [Life & Estate Planning](#), [Native American Issues](#)

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[All Languages >](#)

Welcome to the new LawHelpCA.org!

LawHelpCA.org provides Californians with easy online access to basic legal resources and attorney information.

While our look has changed, our mission remains the same. Please email admin@lawhelpca.org if you have any comments or suggestions about the new site.

LawHelpCA.org – Housing

www.lawhelpca.org

LawHelp.org

powered by probono.net

LawHelpCA.org

Helping Californians find legal aid & self-




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Find Legal Information

Find a Lawyer or Court Program

Search

HOME > FIND LEGAL INFORMATION

 SHARE  EMAIL  PRINT



+ Set your



Housing

Click on the sub-topic that best matches your legal problem to get legal information and to find help.

- [Landlord and Tenant Issues](#)
- [Foreclosure Prevention](#)
- [Homeownership](#)
- [Homelessness](#)
- [Housing Discrimination](#)
- [Mobile Homes and Manufactured Homes](#)
- [Other Housing Issues](#)
- [Predatory Lending](#)
- [Public Housing and Subsidized Housing](#)
- [Small Claims Court](#)

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Welcome to the new LawHelpCA.org!

LawHelpCA.org provides easy online access to basic legal information and attorney information.

Locating Self-Help Centers in California



ADMINISTRATIVE OFFICE
OF THE COURTS
CENTER FOR FAMILIES, CHILDREN
& THE COURTS

A QUICK REFERENCE GUIDE TO THE CALIFORNIA COURTS' SELF-HELP CENTERS AND FAMILY LAW FACILITATORS

The Self-Help Centers (SHC) located in every county provide self-represented parties with information, forms, and procedures related to a variety of legal issues.

Family Law Facilitators (FLF) located in every county provide self-represented parties with information, forms, and procedures related to child support, spousal support, and health insurance issues.

Sometimes the SHC and FLF are found in the same office and sometimes they are separate.

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Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3888

<http://courts.ca.gov/selfhelp.htm/>

April 2012

California Courts' Self-Help Centers and Family Law Facilitators Reference Guide

[http://courts.ca.gov/documents/
Public_Locations_Directory_4-9-12.pd
f](http://courts.ca.gov/documents/Public_Locations_Directory_4-9-12.pdf)

Downloadable brochure provides locations for family law facilitators and self-help centers located in every county in California

Locating Law Libraries in CA

Council of California County Law Librarians

<http://www.publiclawlibrary.org>



The Council of California County Law Librarians welcomes you to
Your Public Law Library



Nolo Books – Legal Information Reference Center (EBSCO Host)

California consortium hosts full access (remotely) by county

- Example: LA Law Library
<http://www.lalawlibrary.org/research/onsite/default.aspx>

Login: CA / LA



Browse by Category

Business & Corporations	Family Affairs & Divorce	Immigration & Travel	Money & Financial Planning
Patents, Copyright & Trademarks	Property & Real Estate	Rights & Disputes	Wills & Estate Planning

Legal Forms by U.S. State



Statutes attempt to lay out the ground rules of the "law" and vary from state to state. Click link below to search legal forms by U.S. state.

[Search By State](#) 

Browse Popular Legal Forms

- ▶ Accident Claims
- ▶ Bankruptcy

Nolo Books – Legal Information Reference Center (EBSCO Host)



Searching: **Legal Information Reference Center** | [Search Other Databases](#)

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Browse by Category

Business & Corporations	<h2>Renters' & Tenants' Rights</h2> <ul style="list-style-type: none">California Landlord's Law Book: EvictionsCalifornia Tenants' RightsEvery Tenant's Legal GuideRenters' RightsYour Little Legal Companion
Family Affairs & Divorce	
Immigration & Travel	
Money & Financial Planning	
Patents, Copyright & Trademarks	
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