



# SUPERIOR COURT OF CALIFORNIA

## COUNTY OF TULARE

[www.tulare.courts.ca.gov](http://www.tulare.courts.ca.gov)

559-730-5000

### ANSWER - UNLAWFUL DETAINER (EVICTION)

Forms included in this packet:		
<b>Read</b>	Instructions	
<b>Complete, File, and Serve</b>	Answer	Judicial Council Form #UD-105
	Attachment form	Judicial Council Form #MC-025
	Prejudgment Claim of Right to Possession (only if you are an unnamed defendant)	Judicial Council Form #CP 10.5
<b>File After Service</b>	Proof of Service by Mail	Judicial Council Form # POS-030

## SELF HELP RESOURCE CENTER

If you are filing an eviction case and do not have an attorney representing you, free assistance is available. Please contact:

Superior Court of California, County of Tulare

SELF-HELP RESOURCE CENTER

(559) 737-5500

221 S. Mooney Blvd. (County Civic Center), Room 203, Visalia CA 93291 OR

300 E. Olive Ave. (South County Justice Center), Porterville, CA 93257

Email: [tcscselfhelpinfo@tulare.courts.ca.gov](mailto:tcscselfhelpinfo@tulare.courts.ca.gov)

The Self-Help Resource Center (also known as the Family Law Facilitator) can provide instructions on how to complete the forms and how to properly serve notice on all necessary parties. They can review and organize your paperwork for you. They can answer your procedural questions and explain the court process. The Self-Help Resource Center **CANNOT** give you legal (strategic) advice or represent you in court.

This is an instructional guide to filing an **unlawful detainer** case, designed to explain the necessary steps for filing your paperwork and defending against your landlord's complaint for eviction.

Fillable, printable pdf versions of the Judicial Council forms contained in this packet are available online at <https://www.courts.ca.gov/forms.htm>. You can type the forms and print them out for filing. You can also use the forms completion program at <https://www.courts.ca.gov/partners/116.htm> which uses a question and answer format and fills out the forms for you.

If you have further questions or concerns regarding your case, you may wish to consult with an attorney, obtain other assistance, or do self-research at the Tulare County Law Library (on the ground floor of the Visalia Courthouse, with Law Library computer terminals also available in the Self-Help Resource Center in the Porterville courthouse) or on the California Courts' Self-Help website at <https://www.courts.ca.gov/selfhelp-custody.htm>. Select the Spanish icon at the right of the webpage for information in Spanish. Additional information is available at the California Department of Real Estate, which you can access by typing "HousingIsKey.com" into your browser or link directly at <https://landlordtenant.dre.ca.gov/>. The Department of Consumer Affairs also publishes a useful called "California Tenants: A Guide to Residential Tenants' and Landlords' Rights and Responsibilities." <https://www.courts.ca.gov/documents/California-Tenants-Guide.pdf>

For additional assistance, Central California Legal Services, located in Visalia, provides free legal assistance on Landlord-Tenant matters for parties who meet their financial criteria.

## INSTRUCTIONS

In California, a landlord can evict a tenant in certain situations by following appropriate legal procedures. That process is called “**Unlawful Detainer.**” To evict a tenant, a landlord must follow the “unlawful detainer” process and serve a tenant with a *Summons* and *Complaint*. After a tenant receives a *Summons* and *Complaint*, the tenant must file a response to the lawsuit with the court in order to defend against the complaint. The response has to be in the proper legal form. It is not enough to call or write a letter to the landlord, or to write a letter to the court. You **MUST** file your response within the deadline. There are different ways to respond. Most tenants respond by filing an *Answer*. This packet will guide you through completing an unlawful detainer answer.

**This packet includes the following forms:**

1. **Unlawful Detainer Answer Packet Instructions**
2. **Answer- Unlawful Detainer** (*Judicial Council Form # UD-105*)
3. **Attachment to Judicial Council Form** (*Judicial Council Form # MC-025*)
4. **Prejudgment Claim of Right to Possession** (*Judicial Council Form # CP 10.5*)
5. **Proof of Service by First Class Mail** (*Judicial Council Form # POS-030*)

## How to Complete an Answer

**In the top box:** write your name (and the name of each person who is filing the Answer with you), address, city, state, zip code and phone number.

Write in **Plaintiff, Defendant, and Case Number** exactly as they are written on the Complaint you received. You will need to do this at the top of each page of the Answer and any attachments.

1. **Defendant:** Write in your name and the name of each person who is filing the **Answer** with you.
2. **Check either Box 2(a) or Box 2(b).**
  - a. Check Box 2(a) if the Complaint asks for less than \$1,000 in “damages.” Go to the end of the Answer and sign the Complaint.
  - b. Check Box 2(b) if the complaint asks for more than \$1,000 in “damages.”
3. **If you checked Box 2(b):**
  - a. Read the **Complaint** and do the following:
    - If you agree with everything the Complaint says, don’t check any other boxes.

- If you disagree with anything in the Complaint, go to section 2(b)(1) and write down the paragraph number of the statement or claim you disagree with.
- If you do not have enough information to agree or disagree with something in the Complaint, go to section 2(b)(2) and list the paragraph number of that statement or claim.

b. Read the **Mandatory Cover Sheet and Supplemental Allegations – Unlawful Detainer (UD-101)** and do the following:

- If you did not receive this form, check a.
- If you received the form but believe that claims made on the form are false, check b.
  - If you checked b, list all of the statements that you believe are false in the plaintiff's **Mandatory Cover Sheet**.
  - If you do not have enough information to agree or disagree with something stated on this form, go to section 2(b)(2) and list the paragraph number of each such item.

*Note: You can also write your version of events on a separate piece of paper and attach it to the Answer.*

3. **Defenses and Objections:** Even if you agree with everything that was written in the **Complaint**, you may have a legal reason why you believe you should not be evicted. If any of the defenses or objections listed in Section 3 apply to you, check the relevant box.

*If you are asserting a defense or making an objection, in section 3(w), explain why you think those defenses or objections apply to your situation. You can use an attachment if you need more room to explain yourself. A blank MC-025 form is included in this packet for this purpose.*

4. Other Statements:

- Check Box **4(a)** if you have already moved yourself and your belongings out, and write the date you moved out.
- Check Box **4(b)** if the Complaint lists a daily rental value and you think it is too high. Write in why you think the daily rent should be a lower amount, and specify the amount.
- Check Box **4(c)** and write in any other details you want the court to know about your case. You can use an attachment if you need more room to explain yourself.

5. Defendant Requests:

- a. Check Box **5(c)** if you are asking for the landlord to pay your attorney's fees.
- b. Check Box **5(d)** if you are claiming the defense of Breach of Warranty of Habitability (Box 3(a)) and you want the court to order the landlord to make the repairs you have been asking for and to lower your rent until those repairs are made.
- c. Check Box **5(e)** if you have any other requests. You can use an attachment if you need more room to explain yourself.

6. Number of pages attached: If you attached any pages to your **Answer**, write in the number of pages you have attached.

7. Unlawful Detainer Assistance: If you completed this form without the help of an unlawful detainer assistant check the "did not" box. If an unlawful detainer assistant (a person you pay to help you with your paperwork) helped you, that person must write in their information under 7(a) through 7(f).

**Signature:** Write your name on the left side line and sign on the right side line. By signing the Answer, you are saying that you are the person filing on your behalf. *Each tenant who is using the form to answer the Complaint must sign.*

**Verification:** date, write you name on the left hand line and sign on the right hand line. **By signing the verification, you are stating under penalty of perjury that everything you wrote in the Answer is true.** *Only one of the tenants filing the Answer has to sign the Verification.*

## Prejudgment Claim of Right to Possession

**USE THIS FORM IF:** You are not named in the Complaint but you feel you have a legal right to remain in the property.

*Filing and serving this form will allow you to participate in the case but could leave you open to liability in the event the judge rules in favor of the landlord. This form must be filed within 10 days of the date of service of the **Summons** and **Complaint**. You must file an **Answer** within 5 days of filing this form.*

Read the Notice section carefully.

To complete the form:

- Claimant or Claimant's Attorney: Write your name, address, and telephone number.
- Plaintiff/Defendant/Case Number: Write these exactly as they are written on the Complaint.

- Declaration:

1. On line 1, write your name
2. On line 2, write your address, including city, state and zip code.
3. On line 3, write the address of the property your co-tenants are being evicted from.
4. On line 4, write the date the Complaint was filed.
5. On line 10, write in the amount of the filing fee (\$435, subject to change – confirm with clerk's office).
6. Be sure to write the plaintiff and defendant's names and case number at the top of page 2.
7. On line 13, check the box that best explains why you think you have a right to the premises.
8. Date, write you name on the left hand line, and sign on the right hand line

**\*NOTE:** You will also need to file an **Answer** within 5 days after you file and serve this form.

## FILING AND SERVICE

When you are ready to file and serve your **Answer**:

1. Make two (2) copies of the **Answer**, including any attachments.
2. Have someone 18 years or older, who is not a party to the case, mail one copy of the **Answer** to the landlord or the landlord's attorney at the name and address listed on section 2 of the Summons.
3. The person who mails your **Answer** will complete and sign the **Proof of Service by Mail**.
4. Make one copy of the signed **Proof of Service**.
5. File the original and remaining copy of the **Answer**, and the original and copy of the **Proof of Service**, at the clerk's office (in Visalia, at 221 South Mooney Blvd., Room 201, and in Porterville, inside the courthouse at 300 E. Olive Avenue in the South County Justice Center).

After you file and serve your **Answer**, either party can file a **Request/Counter-Request to Set Case for Trial – Unlawful Detainer**, which is available at the clerk's office or the Self-Help Resource Center. The clerk's office will then set the case for trial and mail notice to each party.

## OTHER RESOURCES

- **Better Business Bureau**

559-553-4469/559-553-4470

Provides free mediation services for landlord and tenant disputes.

- **Central California Legal Services**

2025 W. Feemster Ave., Visalia, CA

800-350-3654

Provides free legal advice, representation, and other legal services in noncriminal cases to economically disadvantaged persons.

- **Tulare County Superior Court Self-Help Resource Center**

221 S. Mooney Blvd. (County Civic Center), Room 203, Visalia CA 93291

300 E. Olive Ave., South County Justice Center, Porterville, CA 93257

559-737-5500

Provides procedural and legal information, assistance in completing forms.

- **California Department of Fair Employment and Housing**

(Housing Enforcement Unit)

[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

1-800-233-3212.

Investigates housing discrimination complaints.

- **U.S. Department of Housing and Urban Development (HUD)**

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp).

Enforces the federal fair housing law, which prohibits discrimination based on sex, race, color, religion, national origin, familial status, and handicap (disability).

- **Fair Housing Council of Central California (FHCCC)**

Fresno Office 559-244-2950

Non-profit, civil rights organization - Investigates complaints of housing discrimination and predatory lending, offers mediation, counseling, advocacy, research, and fair housing training and workshops for consumers as well as housing providers.





ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:           <b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>ANSWER—UNLAWFUL DETAINER</b>	CASE NUMBER:

1. Defendant (all defendants for whom this answer is filed must be named and must sign this answer unless their attorney signs):

answers the complaint as follows:

2. **DENIALS (Check ONLY ONE of the next two boxes.)**

- a.  **General Denial** (Do not check this box if the complaint demands more than \$1,000.)  
 Defendant generally denies each statement of the complaint and of *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101).
- b.  **Specific Denials** (Check this box and complete (1) and (2) below if complaint demands more than \$1,000.)  
 Defendant admits that all of the statements of the complaint and of *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are true EXCEPT:
  - (1) **Denial of Allegations in Complaint (form UD-100 or other complaint for unlawful detainer)**
    - (a) Defendant claims the following statements of the complaint are false (state paragraph numbers from the complaint or explain below or, if more room needed, on form MC-025):  
 Explanation is on form MC-025, titled as Attachment 2b(1)(a).
    - (b) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (state paragraph numbers from the complaint or explain below or, if more room needed, on form MC-025):  
 Explanation is on form MC-025, titled as Attachment 2b(1)(b).
  - (2) **Denial of Allegations in Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer (form UD-101)**
    - (a)  Defendant did not receive plaintiff's *Mandatory Cover Sheet and Supplemental Allegations* (form UD-101). (If not checked, complete (b) and (c), as appropriate.)
    - (b) Defendant claims the following statements on *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are false (state paragraph numbers from form UD-101 or explain below or, if more room needed, on form MC-025):  Explanation is on form MC-025, titled as Attachment 2b(2)(b).

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2. b. (2) (c) Defendant has no information or belief that the following statements on the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are true, so defendant denies them (*state paragraph numbers from form UD-101 or explain below or, if more room needed, on form MC-025*):
- Explanation is on form MC-025, titled as Attachment 2b(2)(c).
3. **DEFENSES AND OBJECTIONS** (NOTE: For each box checked, you must state brief facts to support it in item 3t (on page 3) or, if more room is needed, on form MC-025. You can learn more about defenses and objections at [www.courts.ca.gov/selfhelp-eviction.htm](http://www.courts.ca.gov/selfhelp-eviction.htm).)
- 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.  (Nonpayment of rent only) Plaintiff's demand for possession is based on nonpayment of rent due more than one year ago.
- e.  Plaintiff waived, changed, or canceled the notice to quit.
- f.  Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.
- g.  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 the laws of the United States or California.
- h.  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*): \_\_\_\_\_  
(Also, briefly state in item 3t the facts showing violation of the ordinance.)
- i.  Plaintiff's demand for possession is subject to the Tenant Protection Act of 2019, Civil Code section 1946.2 or 1947.12, and is not in compliance with the act. (Check all that apply and briefly state in item 3t the facts that support each.)
- (1)  Plaintiff failed to state a just cause for termination of tenancy in the written notice to terminate.
- (2)  Plaintiff failed to provide an opportunity to cure any alleged violations of terms and conditions of the lease (other than payment of rent) as required under Civil Code section 1946.2(c).
- (3)  Plaintiff failed to comply with the relocation assistance requirements of Civil Code section 1946.2(d).
- (4)  Plaintiff has raised the rent more than the amount allowed under Civil Code section 1947.12, and the only unpaid rent is the unauthorized amount.
- (5)  Plaintiff violated the Tenant Protection Act in another manner that defeats the complaint.
- j.  Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.
- k.  Plaintiff seeks to evict defendant based on an act—against defendant, defendant's immediate family member, or a member of defendant's household—that constitutes domestic violence, sexual assault, stalking, human trafficking, abuse of an elder or a dependent adult, or a crime that caused bodily injury, involved a deadly weapon, or used force or threat of force. (This defense requires one of the following, which may be included with this form: (1) a **temporary restraining order, protective order, or police report** that is not more than 180 days old; (2) a **signed statement from a qualified third party** (e.g., a doctor, domestic violence or sexual assault counselor, human trafficking caseworker, psychologist, or a victim of violent crime advocate concerning the injuries or abuse resulting from these acts); or (3) another form of documentation or evidence that verifies that the abuse or violence occurred.)
- (1)  The abuse or violence was committed by a person who does not live in the dwelling unit.
- (2)  The abuse or violence was committed by a person who lives in the dwelling unit and defendant claims protection from eviction under Code of Civil Procedure section 1161.3(d)(2).
- l.  Plaintiff seeks to evict defendant based on defendant or another person calling the police or emergency assistance (e.g., ambulance) by or on behalf of a victim of abuse, a victim of crime, or an individual in an emergency when defendant or the other person believed that assistance was necessary.
- m.  Plaintiff's demand for possession of a residential property is based on nonpayment of rent or other financial obligations and (*check all that apply*)
- (1)  plaintiff received or has a pending application for rental assistance from a governmental rental assistance program or some other source relating to the amount claimed in the notice to pay rent or quit. (Health & Saf. Code, §§ 50897.1(d)(2)(B) and 50897.3(e)(2).)

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DEFENDANT:

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3. m. (2)  plaintiff received or has a pending application for rental assistance from a governmental rental assistance program or some other source for rent accruing since the notice to pay rent or quit. (Health & Saf. Code, §§ 50897.1(d)(2)(B) and 50897.3(e)(2).)
- (3)  plaintiff's demand for possession is based only on late fees for defendant's failure to provide landlord payment within 15 days of receiving governmental rental assistance. (Health & Saf. Code, § 50897.1(e)(2)(B).)
- n.  Plaintiff violated the COVID-19 Tenant Relief Act (Code Civ. Proc., § 1179.01 et seq.) or a local COVID-19–related ordinance regarding evictions in some other way (*briefly state facts describing this in item 3t*).
- o.  The property is covered by the federal CARES Act and the plaintiff did not provide 30 days' notice to vacate. (*Property covered by the CARES Act means property where the landlord*)
- *is participating in a covered housing program as defined by the Violence Against Women Act;*
  - *is participating in the rural housing voucher program under section 542 of the Housing Act of 1949; or*
  - *has a federally backed mortgage loan or a federally backed multifamily mortgage loan.*
- p.  Plaintiff improperly applied payments made by defendant in a tenancy that was in existence between March 1, 2020, and September 30, 2021 (Code Civ. Proc., § 1179.04.5), as follows (*check all that apply*):
- (1)  Plaintiff applied a security deposit to rent, or other financial obligations due, without tenant's written agreement.
- (2)  Plaintiff applied a monthly rental payment to rent or other financial obligations that were due between March 1, 2020, and September 30, 2021, other than to the prospective month's rent, without tenant's written agreement.
- q.  Plaintiff refused to accept payment from a third party for rent due. (Civ. Code, § 1947.3; Gov. Code, § 12955.)
- r.  Defendant has a disability and plaintiff refused to provide a reasonable accommodation that was requested. (Cal. Code Regs., tit. 2, § 12176(c).)
- s.  Other defenses and objections are stated in item 3t.
- t. (*Provide facts for each item checked above, either below or, if more room needed, on form MC-025*):
- Description of facts or defenses are on form MC-025, titled as Attachment 3t.

#### 4. OTHER STATEMENTS

- a.  Defendant vacated the premises on (*date*):
- b.  The fair rental value of the premises alleged in the complaint is excessive (*explain below or, if more room needed, on form MC-025*):
- Explanation is on form MC-025, titled as Attachment 4b.
- c.  Other (*specify below or, if more room needed, on form MC-025*):
- Other statements are on form MC-025, titled as Attachment 4c.

#### 5. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c.  reasonable attorney fees.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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5. d.  that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e.  Other (specify below or on form MC-025):  
 All other requests are stated on form MC-025, titled as Attachment 5e.

6. Number of pages attached: \_\_\_\_\_

**UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)**

7. (Must be completed in all cases.) An unlawful detainer assistant  did not  did for compensation give advice or assistance with this form. If defendant has received any help or advice for pay from an unlawful detainer assistant, state
- a. assistant's name: \_\_\_\_\_ b. telephone number: \_\_\_\_\_
- c. street address, city, and zip code: \_\_\_\_\_
- d. county of registration: \_\_\_\_\_ e. registration number: \_\_\_\_\_ f. expiration date: \_\_\_\_\_

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless defendant's attorney signs.)

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT OR ATTORNEY)

**VERIFICATION**

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT)
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Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT)
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Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT)
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SHORT TITLE: _____	CASE NUMBER: _____
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**ATTACHMENT (Number) :** \_\_\_\_\_  
*(This Attachment may be used with any Judicial Council form.)*

*(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)*

Page \_\_\_\_\_ of \_\_\_\_\_  
*(Add pages as required)*



### **Attachment 3(v) - AFFIRMATIVE DEFENSES**

Check all boxes that apply to your case

**Plaintiff has breached the warranty to provide habitable premises**

The property has the following defective conditions:

- leaks *(describe where)* \_\_\_\_\_
- defective plumbing *(describe where and how)* \_\_\_\_\_
- unsafe gas or electricity *(describe where and how)* \_\_\_\_\_
- no heat
- no hot and cold running water
- dirty or unsafe **common areas** (areas shared with others such as sidewalks and laundry rooms)
- infestation of rodents, pests, or other vermin.

These conditions above were caused by normal wear and tear, and not by me or my guests. I told the landlord about the problem on or about *(describe when and how)* \_\_\_\_\_ but s/he failed to make the repairs in a reasonable time. I told the landlord I would withhold the rent money until the repairs are made. I have the rent money and will bring it to court with me.

[See Code of Civil Procedure (CCP) section 1174.2 and Civil Code (CC) sections 1941-1942.5; *Green v. Superior Court* (1974) 10 Cal.3d 616, 631-632, 111 Cal.Rptr. 704]

**Deducting Needed Repairs from the Rent**

The landlord failed to maintain the property and I had to make the following repairs myself: *(describe the type of repairs)* \_\_\_\_\_ . I first told the landlord about the problem on or about *(describe when and how)* \_\_\_\_\_ but s/he failed to make the repairs in a reasonable time. I then told my landlord that I would fix the problems myself and subtract the costs from the rent. The repairs cost less than one month's rent, and I have not done this more than twice in a 12-month period. [See Civil Code (CC) § 1942]

**Landlord's Refusal to Accept the Rent**

I tried to pay the landlord the full amount of rent due on \_\_\_\_\_, which was before the end of the three days in the notice to pay rent or quit, but the landlord refused to accept it. I have the rent money and will bring it to the trial.

**Landlord Waives or Cancels the Notice to Quit**

The landlord told me on or about *(describe when and how)* \_\_\_\_\_ to ignore the 3-day notice to pay or quit, and that it was O.K. if I paid the rent by \_\_\_\_\_.

The landlord accepted rent to cover a period of time after the  30  60 day notice to quit.  The landlord accepted partial rent after the 3-day notice to quit, and before this lawsuit was filed.

I have the rent money and will bring it to the trial. [See *EDC Assoc. v. Gutierrez*, (1984) 153 Cal.App.3d 167, 170, 200 Cal.Rptr. 333]

**Retaliatory Eviction**

The landlord is evicting me because I reported the landlord to *(describe to whom)* \_\_\_\_\_ on or about *(date)* \_\_\_\_\_ because *(describe reason)* \_\_\_\_\_ and the landlord is retaliating against me for making my complaint. [See *Barela v. Superior Court*, (1981) 30 Cal.3d 244, 249, 178 Cal.Rptr. 618]

**Discrimination**

The landlord is evicting me, not because of being a bad tenant, but because of my  race  color  sex  religion  national origin  marital status  sexual orientation  number of children  occupation  physical or mental disability  because I am receiving public assistance. [See Civil Code Section 51, et seq.; *Abstract Investment Co. V. Huthchinson* (1962) 204 Cal.App.2d 242,255, 22 Cal.Rptr. 309; *Marina Point, Ltd. V. Wolfson* (1982) 30 Cal.3d 721, 724-726, 180 Cal.Rptr. 496]

Case Name: \_\_\_\_\_

Case # : \_\_\_\_\_

**☐ Rent Control**

The property that I am renting is  governed by a rent control ordinance of \_\_\_\_\_ or  it is a mobile home park subject to rent control, or  it is a federally subsidized housing project, or  it is Section 8 housing, AND the landlord's efforts to evict me violate rent control law.

**☐ Tenant Protection Act of 2019** [See Civil Code (CC) §§ 1946.2, 1947.12]

- The notice of termination does not state a just cause for the termination.
- The landlord did not provide me an opportunity to cure alleged violations of the terms and conditions of the lease (other than nonpayment of rent)
- The landlord  did not offer relocation assistance within 15 days of giving notice  did not offer relocation assistance
- The landlord raised the rent more than is allowed [See Civil Code (CC) § 1947.12]. The original rent was \$\_\_\_\_\_. The landlord raised the rent to \$\_\_\_\_\_. The only unpaid rent is the unauthorized amount.
- The landlord violated the Tenant Protection Act in some other way that defeats the complaint, as follows: \_\_\_\_\_

**☐ Acceptance of Rent:**

The landlord accepted rent after the period of the notice to pay rent or quit expired. The landlord accepted the rent on (date): \_\_\_\_\_. [See Civil Code (CC) §§ 1946.2, 1947.12]

**☐ Domestic Violence/Sexual Assault/Stalking/Human Trafficking/Elder Abuse:**

- The tenant or a member of the tenant's family is the victim of Domestic Violence/Sexual Assault/Stalking/Human Trafficking/Elder Abuse and the victim has a restraining order or police report not more than 180 days old, or a signed statement from a third party concerning the acts, and the landlord is evicting the tenant based on that act.
- The date of the police report or restraining order is: \_\_\_\_\_.
- The circumstances of the incident are: \_\_\_\_\_

**☐ Emergency Assistance:**

- The landlord is evicting the tenant because the tenant or someone else called the police or emergency services on behalf of a victim of abuse, crime, or an emergency and the tenant or the person calling believed it was necessary.
- The circumstances of the incident are: \_\_\_\_\_

**☐ Retaliation for Nonpayment During Protected Period**

The landlord is claiming to evict based on a stated reason that is not the real reason; the landlord is actually evicting because the tenant did not pay rent during the protected period between March 1, 2020 and August 30, 2020. The reason I believe this to be true is: \_\_\_\_\_

**☐ Failure to State a Cause of Action**

The landlord has failed to include all the requirements for properly alleging a complaint for unlawful detainer.

**☐ Material Breach of Rental Agreement by Landlord**

The landlord materially violated the rental agreement by (*describe what the landlord failed to do*) \_\_\_\_\_. [See *Green v. Superior Court*, (1974) 10 Cal.3d 616, 634-635, 111 Cal.Rptr. 704]

**☐ Defective Notice**

The notice that the landlord gave me was defective because it:

- was not in writing
- was not given to me in the way the law requires



Case Name: \_\_\_\_\_

Case # : \_\_\_\_\_

- the 15 day notice to pay rent or quit did not state the exact amount of rent due, or included other charges besides rent.

[See Code of Civil Procedure section 1161]

**Defective Notice of Rental Increase**

The landlord raised the rent more than 10% and failed to give me 60 days advance notice of the increase, and based the 3-day notice to pay rent or quit on the improperly noticed rental increase.

[See California Civil Code section 827]

**Ownership of the Property is in Dispute**

This eviction lawsuit is brought by a lender who loaned money to a homeowner, and by a landlord who rented property to a tenant; and the foreclosure that resulted in the lender acquiring title to the property was conducted improperly or in violation of the law. Because title and right to ownership of the property an issue in the lawsuit it should not be decided in an unlawful detainer case.

(See *Mehr v. Superior Court* (1983) 139 Cal.App.3d 1044, 1049, 189 Cal.Rptr. 138]

**Subdivision Map Act**

The landlord violated the Subdivision Map Act by renting the property because the property was not zoned for this type of use or occupancy. Therefore the rental agreement is not enforceable.

(See Government Code Sections 66410-66499.57, and read the case of *Adler v. Elphick* (1986) 184 Cal.App.3d 642, 645-646, 229 Cal.Rptr. 554]

**Offset**

I overpaid the rent for the month of \_\_\_\_\_, year \_\_\_\_\_ and am entitled to a refund in the amount of \$ \_\_\_\_\_; or I paid the sum of \$ \_\_\_\_\_ to \_\_\_\_\_ at the specific request of the landlord, but the landlord failed to credit me this amount on my rent, or refund the overpayment to me.

[See *Minelian v. Manzella* (1989) 215 Cal.App.3d 457, 463-465, 263 Cal.Rptr. 597]

**Act of God**

I was prevented from performing the terms of the rental agreement due to a natural occurrence (earthquake, flood, storm) which occurred on \_\_\_\_\_, and made it impossible for me to *(describe)* \_\_\_\_\_.

**Lack of Privity**

There was no contract or agreement between the landlord and I so I cannot be held responsible for any rent.

**Statute of Frauds**

The lease the landlord is suing me for was not in writing so it cannot be enforced against me.

**Parole Evidence Rule**

The terms of the rental agreement or lease that the landlord claims I violated were not included in the written contract.

**Failure of Condition Precedent**

The landlord failed to do the following \_\_\_\_\_.  
This was required by the terms of our agreement before I had the obligation to pay \$ \_\_\_\_\_ for \_\_\_\_\_.

**Breach by Plaintiff**

The landlord broke the contract first by *(describe)* \_\_\_\_\_,  
and this excused me from performing my part of the bargain.

**Attorney's Fees Not Recoverable**

There was no contract I entered into with the landlord that included a clause entitling the prevailing party to recover attorneys' fees.

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**Affirmative Defenses Attachment**

Case Name: \_\_\_\_\_

Case # : \_\_\_\_\_

**OTHER DEFENSES**

\_\_\_\_\_

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**NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.**

1. If you live here and you do not complete and submit this form, you may be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. You must file this form within 10 days of the date of service listed in the box on the right hand side of this form.
  - **Exception:** If you are a tenant being evicted after your landlord lost the property to foreclosure, the 10-day deadline does not apply to you and you may file this form at any time before judgment is entered.
3. If you file this form, your claim will be determined in the eviction action against the persons named in the complaint.
4. If you do not file this form, you may be evicted without further hearing.
5. If you are a tenant being evicted due to foreclosure, you have additional rights and should seek legal advice immediately.

CLAIMANT OR CLAIMANT'S ATTORNEY <i>(Name and Address):</i>	TELEPHONE NO.:	<b>FOR COURT USE ONLY</b>
ATTORNEY FOR <i>(Name):</i>	CASE NUMBER:	
<b>NAME OF COURT:</b>		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:	(To be completed by the process server) DATE OF SERVICE: (Date that form is served or delivered, posted, and mailed by the officer or process server)	
Plaintiff:		
Defendant:	(Continued on reverse)	
<b>PREJUDGMENT CLAIM OF RIGHT TO POSSESSION</b>		
Complete this form only if ALL of these statements are true:		
1. You are NOT named in the accompanying Summons and Complaint.		
2. You occupied the subject premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is in the accompanying Summons and Complaint.)		
3. You still occupy the subject premises.		

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is *(specify)*:
2. I reside at *(street address, unit no., city and ZIP code)*:
  
3. The address of "the premises" subject to this claim is *(address)*:
  
4. On *(insert date)*: \_\_\_\_\_, the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. *(This date is in the accompanying Summons and Complaint.)*
5. I occupied the premises on the date the complaint was filed *(the date in item 4)*. I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed *(the date in item 4)*.
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed *(the date in item 4)*.
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. *(Filing fee)* I understand that I must go to the court and pay a filing fee of \$ \_\_\_\_\_ or file with the court an "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file the form for waiver of court fees, I will not be entitled to make a claim of right to possession.

Plaintiff: Defendant:	CASE NUMBER:
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11. If my landlord lost this property to foreclosure, I understand that I can file this form at any time before judgment is entered, and that I have additional rights and should seek legal advice.
12. I understand that I will have *five days* (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

**NOTICE: If you fail to file this claim, you will be evicted without further hearing.**

13. **Rental agreement.** I have (*check all that apply to you*):
- a.  an oral or written rental agreement with the landlord.
  - b.  an oral or written rental agreement with a person other than the landlord.
  - c.  an oral or written rental agreement with the former owner who lost the property to foreclosure.
  - d.  other (*explain*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**WARNING: Perjury is a felony punishable by imprisonment in the state prison.**

Date:

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF CLAIMANT)

**NOTICE: If you file this claim to possession, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.**

**- NOTICE TO OCCUPANTS -**

**YOU MUST ACT AT ONCE if all the following are true:**

1. You are **NOT** named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed.
3. You still occupy the premises.

You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the form) at the court where the unlawful detainer (eviction) complaint was filed. If you are a tenant and your landlord lost the property you occupy through foreclosure, this 10-day deadline does not apply to you. You may file this form at any time before judgment is entered. You should seek legal advice immediately.

If you do not complete and submit this form (and pay a filing fee or file a fee waiver form if you cannot pay the fee), **YOU WILL BE EVICTED.**

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. *If you do not file this claim, you may be evicted without a hearing.*

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):   TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<b>PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL</b>	CASE NUMBER: _____

*(Do not use this Proof of Service to show service of a Summons and Complaint.)*

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
  
3. On (*date*): \_\_\_\_\_ I mailed from (*city and state*): \_\_\_\_\_  
 the following documents (*specify*):

The documents are listed in the *Attachment to Proof of Service by First-Class Mail - Civil (Documents Served)* (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and (*check one*):
  - a.  **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - b.  **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
  - a. **Name** of person served:
  - b. **Address** of person served:

The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail-Civil (Persons Served)* (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

\_\_\_\_\_  
(SIGNATURE OF PERSON COMPLETING THIS FORM)

## INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

**NOTE:** This form should **not** be used for proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Use these instructions to complete the *Proof of Service by First-Class Mail - Civil* (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents: (1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service - Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

### INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

Complete the top section of the proof of service form as follows:

First box, left side : In this box print the name, address, and telephone number of the person *for* whom you served the documents.

Second box, left side : Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Complete items 1-5 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
4. For item 4:  
Check box a if you personally put the documents in the regular U.S. mail.  
Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Persons Served)* (form POS-030(P)), and attach it to form POS-030.

**At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<b>PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL</b>	CASE NUMBER:

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3. On (date): \_\_\_\_\_ I mailed from (city and state): \_\_\_\_\_  
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

\_\_\_\_\_  
 (SIGNATURE OF PERSON COMPLETING THIS FORM)

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3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
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**At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.**