Small Claims Boot Camp

June 8, 2011

2011 California Conference on Self-Represented Litigants
Milton Marks Conference Center, San Francisco, CA

Contents

Preparing and Presenting A Small Claims Case

Small Claims Boot Camp

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Small Claims Overview

- People represent themselves
- Attorneys cannot represent litigants (except on Appeal)
- Claims limited to $7,500 for individuals and $5,000 for Corps…
  - Only 2 claims per year can be $2,500 or more
  - Claims under $2,500 are unlimited
- Filing Fees
  - $30 for claims up to $1,500
  - $50 for claims between $1,500-$5,000
  - $75 for claims over $5,000
  - $100 for individuals who have filed more than 12 small claims in California within the previous 12 months
- Trials are set for 20-70 days after filing

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Objective

Help In:

- Preparing A Case
- Presenting A Claim

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Small Claims Resources

- *Everybody's Guide to Small Claims Court* by Nolo Press
- *How to Collect When You Win a Lawsuit* by Nolo Press
- CCP 116.110-116.960
- Access to www.ocsmallclaims.com and www.occourts.org or your Court's website
- Judge's Benchbook
- Consumer Law Sourcebook, Department of Consumer Affairs
- DCA Website
- Yahoo group

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Is Small Claims Court Appropriate For This Case?

- Does the claim justify the cost?
- Can I collect?
- No more than two suits for over $2500
- Under $7,500?
- Which court has jurisdiction?

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SC-100 Plaintiff's Claim and ORDER to Go to Small Claims Court

Notice to the person being sued:

Aviso al Demandado:

Order to Go to Court

The people in ① and ② must go to court: (Check (X) one boxes below.)

Instructions for the person suing:

Plaintiff's Claim and ORDER to Go to Small Claims Court (Small Claims)

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Plaintiff's Claim and Order to go to Court

- Name and address
- Defendant's name and address
- How much you are suing for?
- Why are you entitled to that amount?
- How will you serve the papers?
- Courts will keep the original. You will need to provide a copy for each defendant and yourself.

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Naming an Individual

- Individual "Hart, Betty M."
- Husband and Wife
  - D1 "John Smith",
  - D2 "Nancy Smith"
- For multiple litigants, fill out form SC 100-A, "Other Plaintiff's or Defendants."

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Naming a Business

- Owner of a sole ownership doing business under a fictitious business name:
  - "John P. Jones DBA John's Shoe Store
- Partners on behalf of a partnership:
  - "Betty M. Hart individually and DBA Hart and Simons"
  - "Susan Simons individually and DBA Hart and Simons"
- Obtaining a fictitious business name statement (DBA)
  - Recorder's Office (EFBN)

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Naming a Corporation

- A Corporation:
  - "Beacham & Beacham, Inc."
  - Or "Abacast Corporation DBA Maritime Company"
- More information about a Corporation
  - www.ss.ca.gov
  - www.ocsmallclaims.com
    - "Corporation Records"

Naming a Corporation

- When you search for a corporation, you will find two addresses:

- You can write the "Entity's Address" on your Plaintiff's Claim.

Entity Name:	LEGAL AID SOCIETY OF ORANGE COUNTY
Entity Number:	C0354322
Date Filed:	05/09/1958
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	2101 N TUSTIN AVE
Entity City, State, Zip:	SANTA ANA CA 92705
Agent for Service of Process:	ROBERT J COHEN
Agent Address:	2101 N TUSTIN AVE
Agent City, State, Zip:	SANTA ANA CA 92705

Naming a Corporation

- When you search for a corporation, you will find two addresses:
  - Once your claim is filed, you will notify the defendant(s) by serving the corporation's "Agent for Service of Process."

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Explain Your Claim

- Money Judgments (provide dates and explain how you arrived at a particular dollar amount)
  - On 11/2/01 Maria Cortez stopped paying on contract dated 7/9/01. The remaining balance to be paid is $438.22
- Conditional Judgments
  - "Return of 1988 Toyota Corolla VIN# or $5,000"
- Rescission
  - "The phone service I ordered with Pacific Bell never worked. I would like to have this contract rescinded."
  - It may also be important to include a dollar amount on the claim. Some courtsmay not accept the filing if the line for a dollar amount in item 3 is left blank or the judge may find that a monetary judgment is appropriate.

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Determine Venue

- Determine Venue, sue where:
  - The defendant resides or does business
  - The defendant entered into the contract
  - The contract was to be performed
  - The Real Property is located
  - The Accident/Injury occurred

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Determine Venue

- If there is more than one proper venue, you may choose the one most convenient for you.

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File the Plaintiff's Claim

- Determine which venue or courthouse to file your claim
  - Follow venue rules.
- File with clerk at the appropriate venue
- Pay Filing Fee or request for a Fee Waiver Packet
- Trial can be set 20-70 days from the date it was filed

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Serving the Claim

- Certified Mail through the clerk ($10)
- Sheriff ($35)
- Personal Service
  - Process Server (fee varies)
  - Disinterested Party over 18 years old

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Serving the Claim

- Substituted Service
  - If a person cannot be found at her home or workplace
  - Substituted service must be completed 25 days before hearing (within County)

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Serving the Claim

- Certified Mail through the clerk
  - Only the clerk can send claim through certified mail
  - The fee is $10
  - You should call before the hearing to make sure that the clerk has filed a *Proof of Service* at least 5 court days before the hearing
- *Generally the least effective method of service*

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Serving the Claim

- Sheriff
  - In Orange County, contact the Sheriff's Office that is nearest to the defendant
  - Fill out a *Sheriff's Instruction Sheet*
  - The fee is $35
  - Make sure the sheriff returns the *Proof of Service* to the clerk at least 5 court days before the hearing

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Serving the Claim

- Personal Service
  - Disinterested party- any person who is 18 years or older and who is not named on the claim (e.g.., neighbor, friend, relative, legal process server)
  - Make sure the *Proof of service* is returned to the clerk at least 5 court days before the hearing

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Serving the Claim

- Substituted Service
  - If the defendant cannot be found at her home or workplace you can use this method of service
  - A sheriff or disinterested party can leave a copy of the claim at the defendant's workplace *OR* with a person who appears to be in charge *OR* at defendant's home with a person who is at least 18 years old

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Serving the Claim

- Substituted Service
  - A copy must also be mailed First Class to the address where the claim was delivered
  - Substituted service must be completed 25 days before the hearing. (30 days if defendant lives outside of the County)

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Getting People, Papers, and Things to Trial

- Witness
  - Complete Small Claims Subpoena and Declaration (SC-107)
  - After clerk issues the subpoena, have a copy served on witness (the plaintiff may serve the subpoena)
  - Return proof of service
  - Witness can ask for $35 dollars a day and 20 cents per mile

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Getting People, Papers and Things to Trial

- *Special Rules apply for "consumer records"*

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Getting People, Papers and Things to Trial

- Documents
  - Complete Small Claims Subpoena and Declaration (SC-107) and check the box requesting witness to produce documents
  - Describe exactly which documents you need and the reason for your request
  - After clerk issues the subpoena, have a copy served on the custodian of records
  - Return proof of service.

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Preparing for Hearing

- Attend Small Claims hearing to understand courtroom process and atmosphere
- Try to condense your opening statement into 25 words or less
- Make sure your evidence is easily understood
- Make 3 copies of everything

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At the Hearing

- Check in early with the bailiff
- Before hearing, the bailiff will ask if you would like to try mediation. Both parties must agree in order to go into mediation.
- If you go to court, speak only to the Judge
- Address the Judge as *"Your Honor"*

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At the Hearing

- Plaintiff presents their case first
- Defendant will present their case when plaintiff is done
- Judge will ask questions
- Do not interrupt the Judge at anytime

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Judgment

- Judge can render a judgment at the hearing or send it by mail
- You must take steps to collect. The court will not do it for you.
- You must wait 30 days from the date of mailing on the *Notice of Entry of Judgment* to begin collecting
- Judge can make the judgment conditional

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Appeal

- Only a losing defendant (or plaintiff who has lost a countersuit) may appeal
- Must be filed no later than 30 days after the date of mailing on the *Notice of Entry of Judgment*
- Results in a *Trial de Novo*
- Filing fee is $75.00
- Attorneys may represent the parties

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Questions

- Call Jay!

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Basic Collection Techniques

- William T. Tanner
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  btanner@legal-aid.com

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Today's Presentation

- Part 1 Introduction
- Part 2 How to Collect
- Part 3 Scenarios
- Part 4 Resources

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Basic Collection Techniques – Pre-Step 1

- Don't break fair debt collection laws
- Try to get debtor to pay voluntarily
- Start finding out what they/it own

3

Basic Collection Techniques – Step 1

Look at realistic collection avenues...

- Do they:
  - Receive wages from an employer?
  - Own a bank account?
  - Own real property?

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Basic Collection Techniques – Step 1

Not-as-simple collection avenues...

- Do they:
  - Run a business?
  - Have money/rent owed to them?
  - Have a car?

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Basic Collection Techniques

- Find out details about job/assets
- Fill out legal forms
- Court issues legal forms
- Forms to Sheriff
- Wait for $$

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Basic Collection Techniques – Basic Forms

	Wage Garnishment	Bank Levy	Property Lien	Sheriff Levy
Writ of Execution	X	X		X
Memorandum of Costs	X	X		
Application for Earnings Withholding Order	X			
Letter to Sheriff	X	X		X
Abstract of Judgment			X	

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Maintain Your Judgment

- Memorandum of Cost (MC-012)
- Add costs within 2 years
- Acknowledge payments
- Add Interest

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Calculating Interest

- 10% a year
- Ex. Judgment =$5000 Entered 1-01-2008
- $5000 X 10%= $500 per year
- $500 ÷ 365 days in a year= $1.37 interest per day
- 1-01-2008 to present
  (total days) X $1.37= ...

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Scenario

- You have a Judgment against John Smith for $5000.
- You do not know if John works, if he has a bank account, or if he owns a home.
- Collection Ideas?

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Debtor's Examination

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Conducting a Debtor Exam

- Where is it held?
- Who asks questions?
- What can you ask?

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Scenario

- You schedule a Debtor's Examination for John Smith to appear.
- John Smith doesn't show up.
- What can you do?

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Bench Warrant

- What is a Bench Warrant?
- What are the procedures to follow when a bench warrant is issued?
- What forms will you need?
- Does that guarantee payment?
- How much is the bail amount?

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Bench Warrant (Answer)

- Forms:
  Bench Warrant (L-525)
  Bench Warrant Instructions (L-1166)
- Procedure:
  After a bench warrant is issued the sheriff will serve warrant (will NOT arrest). Debtor will have to go to court to contest the warrant and pay bail. Clerk will contact creditor and reschedule debtor's examination.

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Scenario

- You have a judgment against a dentist for $7500.
- Would a till tap or keeper work here?

17

It may…

- Imagine going to your dentist's office and having a Sheriff collecting your co-pay
- If the dentist is part of a group, the other dentists will be upset

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Scenario

- You have a judgment against Speed Racer for $3500.
- Does it matter whether the judgment arose due to an accident on a California Highway or City Streets?

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DL-17, DL-30

- You may be able to get their license suspended.
- What is the difference between forms DL-17 and DL-30?

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DL-17, DL-30 (Answer)

- Form DL-17:
  - For Judgments less than $750
  - License will be suspended for 90 days
- Form DL-30:
  - For Judgments more than $750
  - License can be suspended indefinitely

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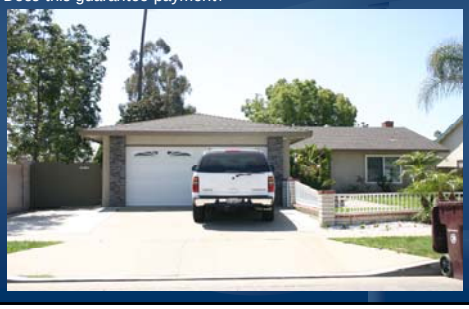
Abstract of Judgment

Debtor owns a home.

What can you do?

Does this guarantee payment?



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Abstract of Judgment (Answer)

- Form:
  File an Abstract of Judgment (EJ-001) with the court. There is a fee for filing.
- Procedure:
  After filing, take the Abstract of Judgment to the County Recorder's office to be recorded. The clerk will charge you a fee to record the Abstract (approximately $20).
  Liens will be placed on all properties owned by the debtor.

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What if you do not know whether or not they own a home?

- Where can you find that information?

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Also, you may ask a real estate agent to perform a title search.

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Scenario

- You have a judgment against John Smith, Tom Arnold, and Carl McDonald.
- The judgment is for $7500
- Collection Ideas?

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Joint and Severable Liability?

- What do each mean?

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Joint and Severable Liability (Answer)

- Joint Judgment:

  If there is more than one debtor on judgment, creditor is allowed to collect all the judgment from just one debtor.
- Severable Liability:

  Judgment is divided between debtors. Judge will specify on judgment who owes what.

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Scenarios

- You, the Plaintiff, have a judgment for $4000 against John Smith.
- John is unemployed, doesn't own any property, and has no money in his bank accounts.
- You know John's wife has a secure job with a bi-monthly pay check.
- Also, you have learned that she has accounts at Bank of Sacks.
- Collection ideas?

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Collecting From a Debtor's Spouse

Creditor is allowed to collect money from the debtor's spouse.

- From his/her account
  - Without notice
- From his/her wages
  - Upon noticed motion
- In what order and where should the Sheriff go?

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You have a judgment against Food4Less. How can you collect?

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What is the Legal Name of Food4Less?

- It is NOT "Food4Less"
- Affidavit of Identity and Order
  - May not work

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Affidavit of identity and Order (Answer)

- You must know the legal owner of a business in order to be able to collect from the business.
- Procedure:

  - Go to City Hall to obtain the business license for Food 4 Less (Ralphs Grocery Company) if wrong on Judgment

  - File an Affidavit of Identity and Order (L-2527) with the court. Attach the business license that you obtained from City Hall.

  - If Judge signs and approves the Affidavit of Identity and Order, take a copy and a Writ to the Sheriff for a till tap or a keeper levy.

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Renewing Your Judgment

- 10 years.
- To renew file:
  - Application for an Renewal of Judgment (EJ-190)
  - Notice of Renewal of Judgment (EJ-195)
- Memorandum of Costs (MC-012).
- The renewal extends 10 years
- Pay fee

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Satisfied Judgment

- File an Acknowledgement of Satisfaction of Judgment.
- Failure to file and serve may result in:
  - Penalty fees
  - Demand for all Damages
- Judgment may be paid to court.
  - fee.

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Resources

- Code of Civil Procedures
- Sheriff's Procedural manual
- www.courtinfo.ca.gov/selfhelp
- www.ocsmallclaims.com
- How to Collect When You Win a Lawsuit in California- NOLO
- Enforcing Judgments and Debts- Rutter Group
- Enforcing Civil Money Judgments- CEB

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I-CAN

- You can prepare forms online at:

http://www.icandocs.org/ca

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Special Thanks to:

- Leigh Parsons
  Supervising Attorney, Self-Help Center
  Santa Clara County
- Claudia Quijano
  - Legal Aid Society of Orange County

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Selected Statutes

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CC §789.3: Interruption of utilities by landlord

(a)A landlord shall not with intent to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as his residence willfully cause, directly or indirectly, the interruption or termination of any utility service furnished the tenant, including, but not limited to, water, heat, light, electricity, gas, telephone, elevator, or refrigeration, whether or not the utility service is under the control of the landlord.

(b)In addition, a landlord shall not, with intent to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as his or her residence, willfully:

(1)Prevent the tenant from gaining reasonable access to the property by changing the locks or using a bootlock or by any other similar method or device;

(2)Remove outside doors or windows; or

(3)Remove from the premises the tenant's personal property, the furnishings, or any other items without the prior written consent of the tenant, except when done pursuant to the procedure set forth in Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3.

Nothing in this subdivision shall be construed to prevent the lawful eviction of a tenant by appropriate legal authorities, nor shall anything in this subdivision apply to occupancies defined by subdivision (b) of Section 1940.

(c)Any landlord who violates this section shall be liable to the tenant in a civil action for all of the following:

(1)Actual damages of the tenant.

(2)An amount not to exceed one hundred dollars ($100) for each day or part thereof the landlord remains in violation of this section. In determining the amount of such award, the court shall consider proof of such matters as justice may require; however, in no event shall less than two hundred fifty dollars ($250) be awarded for each separate cause of action. Subsequent or repeated violations, which are not committed contemporaneously with the initial violation, shall be treated as separate causes of action and shall be subject to a separate award of damages.

(d)In any action under subdivision (c) the court shall award reasonable attorney's fees to the prevailing party. In any such action the tenant may seek appropriate injunctive relief to prevent continuing or further violation of the provisions of this section during the pendency of the action. The remedy provided by this section is not exclusive and shall not preclude the tenant from pursuing any other remedy which the tenant may have under any other provision of law.

CC §1057.3: Failure to release funds from escrow

(a)It shall be the obligation of a buyer and seller who enter into a contract to purchase and sell real property to ensure that all funds deposited into an escrow account are returned to the person who deposited the funds or who is otherwise entitled to the funds under the contract, if the purchase of the property is not completed by the date set forth in the contract for the close of escrow or any duly executed extension thereof.

(b)Any buyer or seller who fails to execute any document required by the escrow holder to release funds on deposit in an escrow account as provided in subdivision (a) within 30 days following a written demand for the return of funds deposited in escrow by the other party shall be liable to the person making the deposit for all of the following:

(1)The amount of the funds deposited in escrow not held in good faith to resolve a good faith dispute.

(2)Damages of treble the amount of the funds deposited in escrow not held to resolve a good faith dispute, but liability under this paragraph shall not be less than one hundred dollars ($100) or more than one thousand dollars ($1,000).

(3)Reasonable attorney's fees incurred in any action to enforce this section.

(c)Notwithstanding subdivision (b), there shall be no cause of action under this section, and no party to a contract to purchase and sell real property shall be liable, for failure to return funds deposited in an escrow account by a buyer or seller, if the funds are withheld in order to resolve a good faith dispute between a buyer and seller. A party who is denied the return of the funds deposited in escrow is entitled to damages under this section only upon proving that there was no good faith dispute as to the right to the funds on deposit.

(d)Upon the filing of a cause of action pursuant to this section, the escrow holder shall deposit the sum in dispute, less any cancellation fee and charges incurred, with the court in which the action is filed and be discharged of further responsibility for the funds.

(e) Neither any document required by the escrow holder to release funds deposited in an escrow account nor the acceptance of funds released from escrow, by any principal to the escrow transaction, shall be deemed a cancellation or termination of the underlying contract to purchase and sell real property, unless the cancellation is specifically stated therein. If the escrow instructions constitute the only contract between the buyer and seller, no document required by the escrow holder to release funds deposited in an escrow account shall abrogate a cause of action for breach of a contractual obligation to purchase or sell real property, unless the cancellation is specifically stated therein.

(f)For purposes of this section:

(1)"Close of escrow" means the date, specified event, or performance of prescribed condition upon which the escrow agent is to deliver the subject of the escrow to the person specified in the buyer's instructions to the escrow agent.

(2)"Good faith dispute" means a dispute in which the trier of fact finds that the party refusing to return the deposited funds had a reasonable belief of his or her legal entitlement to withhold the deposited funds. The existence of a "good faith dispute" shall be determined by the trier of fact.

(3)"Property" means real property containing one to four residential units at least one of which at the time the escrow is created is to be occupied by the buyer. The buyer's statement as to his or her intention to occupy one of the units is conclusive for the purposes of this section.

(g)Nothing in this section restricts the ability of an escrow holder to file an interpleader action in the event of a dispute as to the proper distribution of funds deposited in an escrow account.

CC §1719: Bad Checks

(a)(1)Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for the amount of the check and a service charge payable to the payee for an amount not to exceed twenty-five dollars ($25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars ($35) for each subsequent check to that payee passed on insufficient funds.

(2)Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for damages equal to treble the amount of the check if a written demand for payment is mailed by certified mail to the person who had passed a check on insufficient funds and the written demand informs this person of (A) the provisions of this section, (B) the amount of the check, and (C) the amount of the service charge payable to the payee. The person who had passed a check on insufficient funds shall have 30 days from the date the written demand was mailed to pay the amount of the check, the amount of the service charge payable to the payee, and the costs to mail the written demand for payment. If this person fails to pay in full the amount of the check, the service charge payable to the payee, and the costs to mail the written demand within this period, this person shall then be liable instead for the amount of the check, minus any partial payments made toward the amount of the check or the service charge within 30 days of the written demand, and damages equal to treble that amount, which shall not be less than one hundred dollars ($100) nor more than one thousand five hundred dollars ($1,500). When a person becomes liable for treble damages for a check that is the subject of a written demand, that person shall no longer be liable for any service charge for that check and any costs to mail the written demand.

(3)Notwithstanding paragraphs (1) and (2), a person shall not be liable for the service charge, costs to mail the written demand, or treble damages if he or she stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the service charge, costs to mail the written demand, or treble damages only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(4)Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if, at any time, he or she presents the payee with written confirmation by his or her financial institution that the check was returned to the payee by the financial institution due to an error on the part of the financial institution.

(5)Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if the person presents the payee with written confirmation that his or her account had insufficient funds as a result of a delay in the regularly scheduled transfer of, or the posting of, a direct deposit of a social security or government benefit assistance payment.

(6)As used in this subdivision, to "pass a check on insufficient funds" means to make, utter, draw, or deliver any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation that refuses to honor the check, draft, or order for any of the following reasons:

(A)Lack of funds or credit in the account to pay the check.

(B)The person who wrote the check does not have an account with the drawee.

(C)The person who wrote the check instructed the drawee to stop payment on the check.

(b)For purposes of this section, in the case of a stop payment, the existence of a "good faith dispute" shall be determined by the trier of fact. A "good faith dispute" is one in which the court finds that the drawer had a reasonable belief of his or her legal entitlement to withhold payment. Grounds for the entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c)In the case of a stop payment, the notice to the drawer required by this section shall be in substantially the following form:

NOTICE

To:

(name of drawer)

is the payee of a check you wrote

(name of payee)

for $. The check was not paid because

(amount)

you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash, a service charge of an amount not to exceed twenty-five dollars ($25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars ($35) for each subsequent check passed on insufficient funds, and the costs to mail this notice within 30 days after this notice was mailed, you could be sued and held responsible to pay at least both of the following:

(1)The amount of the check.

(2)Damages of at least one hundred dollars ($100) or, if higher, three times the amount of the check up to one thousand five hundred dollars ($1,500).

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the service charge, treble damages, or mailing cost. If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

(name of payee)

(street address)

(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

(name of sender of notice)

(d)In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand that, in that case, shall have been sent to the drawer and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the drawer's last known address.

(e)A cause of action under this section may be brought in small claims court by the original payee, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the drawer instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f)A cause of action under this section may be brought by a holder of the check or an assignee of the payee. A proceeding under this section is a limited civil case. However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in small claims court.

(g)Notwithstanding subdivision (a), if the payee is the court, the written demand for payment described in subdivision (a) may be mailed to the drawer by the court clerk. Notwithstanding subdivision (d), in the case of a stop payment where the demand is mailed by the court clerk, a court may not award damages or costs pursuant to subdivision (d), unless the court receives into evidence a copy of the written demand, and a certificate of mailing by the court clerk in the form provided for in subdivision (4) of Section 1013a of the Code of Civil Procedure for service in civil actions. For purposes of this subdivision, in courts where a single court clerk serves more than one court, the clerk shall be deemed the court clerk of each court.

(h)The requirements of this section in regard to remedies are mandatory upon a court.

(i)The assignee of the payee or a holder of the check may demand, recover, or enforce the service charge, damages, and costs specified in this section to the same extent as the original payee.

(j)(1)A drawer is liable for damages and costs only if all of the requirements of this section have been satisfied.

(2)The drawer shall in no event be liable more than once under this section on each check for a service charge, damages, or costs.

(k)Nothing in this section is intended to condition, curtail, or otherwise prejudice the rights, claims, remedies, and defenses under Division 3 (commencing with Section 3101) of the Commercial Code of a drawer, payee, assignee, or holder, including a holder in due course as defined in Section 3302 of the Commercial Code, in connection with the enforcement of this section.

CC §1770: Consumer Legal Remedies Act

(a)The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

(1)Passing off goods or services as those of another.

(2)Misrepresenting the source, sponsorship, approval, or certification of goods or services.

(3)Misrepresenting the affiliation, connection, or association with, or certification by, another.

(4)Using deceptive representations or designations of geographic origin in connection with goods or services.

(5)Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have.

(6)Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.

(7)Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(8)Disparaging the goods, services, or business of another by false or misleading representation of fact.

(9)Advertising goods or services with intent not to sell them as advertised.

(10)Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(11)Advertising furniture without clearly indicating that it is unassembled if that is the case.

(12)Advertising the price of unassembled furniture without clearly indicating the assembled price of that furniture if the same furniture is available assembled from the seller.

(13)Making false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.

(14)Representing that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law.

(15)Representing that a part, replacement, or repair service is needed when it is not.

(16)Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.

(17)Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(18)Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction with a consumer.

(19)Inserting an unconscionable provision in the contract.

(20)Advertising that a product is being offered at a specific price plus a specific percentage of that price unless (A) the total price is set forth in the advertisement, which may include, but is not limited to, shelf tags, displays, and media advertising, in a size larger than any other price in that advertisement, and (B) the specific price plus a specific percentage of that price represents a markup from the seller's costs or from the wholesale price of the product. This subdivision shall not apply to in-store advertising by businesses which are open only to members or cooperative organizations organized pursuant to Division 3 (commencing with Section 12000) of Title 1 of the Corporations Code where more than 50 percent of purchases are made at the specific price set forth in the advertisement.

(21)Selling or leasing goods in violation of Chapter 4 (commencing with Section 1797.8) of Title 1.7.

(22)(A)Disseminating an unsolicited prerecorded message by telephone without an unrecorded, natural voice first informing the person answering the telephone of the name of the caller or the organization being represented, and either the address or the telephone number of the caller, and without obtaining the consent of that person to listen to the prerecorded message.

(B)This subdivision does not apply to a message disseminated to a business associate, customer, or other person having an established relationship with the person or organization making the call, to a call for the purpose of collecting an existing obligation, or to any call generated at the request of the recipient.

(23)The home solicitation, as defined in subdivision (h) of Section 1761, of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for the purposes of paying for home improvements and where the transaction is part of a pattern or practice in violation of either subsection (h) or (i) of Section 1639 of Title 15 of the United States Code or subsection (e) of Section 226.32 of Title 12 of the Code of Federal Regulations.

A third party shall not be liable under this subdivision unless (A) there was an agency relationship between the party who engaged in home solicitation and the third party or (B) the third party had actual knowledge of, or participated in, the unfair or deceptive transaction. A third party who is a holder in due course under a home solicitation transaction shall not be liable under this subdivision.

(24)(A)Charging or receiving an unreasonable fee to prepare, aid, or advise any prospective applicant, applicant, or recipient in the procurement, maintenance, or securing of public social services.

(B)For purposes of this paragraph, the following definitions shall apply:

(i)"Public social services" means those activities and functions of state and local government administered or supervised by the State Department of Health Care Services, the State Department of Public Health, or the State Department of Social Services, and involved in providing aid or services, or both, including health care services and medical assistance, to those persons who, because of their economic circumstances or social condition, are in need of that aid or those services and may benefit from them.

(ii)"Unreasonable fee" means a fee that is exorbitant and disproportionate to the services performed. Factors to be considered, when appropriate, in determining the reasonableness of a fee, are based on the circumstances existing at the time of the service and shall include, but not be limited to, all of the following:

(I)The time and effort required.

(II)The novelty and difficulty of the services.

(III)The skill required to perform the services.

(IV)The nature and length of the professional relationship.

(V)The experience, reputation, and ability of the person providing the services.

(C)Paragraph (24) shall not apply to attorneys licensed to practice law in California, who are subject to the California Rules of Professional Conduct and to the mandatory fee arbitration provisions of Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, when the fees charged or received are for providing representation in administrative agency appeal proceedings or court proceedings for purposes of procuring, maintaining, or securing public social services on behalf of a person or group of persons.

(b)(1)It is an unfair or deceptive act or practice for a mortgage broker or lender, directly or indirectly, to use a home improvement contractor to negotiate the terms of any loan that is secured, whether in whole or in part, by the residence of the borrower and which is used to finance a home improvement contract or any portion thereof. For purposes of this subdivision, "mortgage broker or lender" includes a finance lender licensed pursuant to the California Finance Lenders Law (Division 9 (commencing with Section 22000) of the Financial Code), a residential mortgage lender licensed pursuant to the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code), or a real estate broker licensed under the Real Estate Law (Division 4 (commencing with Section 10000) of the Business and Professions Code).

(2)This section shall not be construed to either authorize or prohibit a home improvement contractor from referring a consumer to a mortgage broker or lender by this subdivision. However, a home improvement contractor may refer a consumer to a mortgage lender or broker if that referral does not violate Section 7157 of the Business and Professions Code or any other provision of law. A mortgage lender or broker may purchase an executed home improvement contract if that purchase does not violate Section 7157 of the Business and Professions Code or any other provision of law. Nothing in this paragraph shall have any effect on the application of Chapter 1 (commencing with Section 1801) of Title 2 to a home improvement transaction or the financing thereof.

CC §1780: Punitive damages for violation of CC §1770

(a)Any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 may bring an action against that person to recover or obtain any of the following:

(1)Actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars ($1,000).

(2)An order enjoining the methods, acts, or practices.

(3)Restitution of property.

(4)Punitive damages.

(5)Any other relief that the court deems proper.

(b)(1)Any consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified therein, up to five thousand dollars ($5,000) where the trier of fact does all of the following:

(A)Finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(B)Makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345.

(C)Finds that an additional award is appropriate.

(2)Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member that additional award if the trier of fact has made the foregoing findings.

(c)Whenever it is proven by a preponderance of the evidence that a defendant has engaged in conduct in violation of paragraph (24) of subdivision (a) of Section 1770, in addition to all other remedies otherwise provided in this section, the court shall award treble actual damages to the plaintiff. Subdivision (c) shall not apply to attorneys licensed to practice law in California, who are subject to the California Rules of Professional Conduct and to the mandatory fee arbitration provisions of Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, when the fees charged or received are for providing representation in administrative agency appeal proceedings or court proceedings for purposes of procuring, maintaining, or securing public social services on behalf of a person or group of persons.

(d)An action under subdivision (a) or (b) may be commenced in the county in which the person against whom it is brought resides, has his or her principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a county described in this section as a proper place for the trial of the action. If a plaintiff fails to file the affidavit required by this section, the court shall, upon its own motion or upon motion of any party, dismiss the action without prejudice.

(e)The court shall award court costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this section. Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith.

CC §1942.5: Retaliatory eviction

(a)If the lessor retaliates against the lessee because of the exercise by the lessee of his rights under this chapter or because of his complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1)After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, or has made an oral complaint to the lessor regarding tenantability.

(2)After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3)After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4)After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5)After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b)A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c)It is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(d)Nothing in this section shall be construed as limiting in any way the exercise by the lessor of his or her rights under any lease or agreement or any law pertaining to the hiring of property or his or her right to do any of the acts described in subdivision (a) or (c) for any lawful cause. Any waiver by a lessee of his or her rights under this section is void as contrary to public policy.

(e)Notwithstanding subdivisions (a) to (d), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (c), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (c). If the statement is controverted, the lessor shall establish its truth at the trial or other hearing.

(f)Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1)The actual damages sustained by the lessee.

(2)Punitive damages in an amount of not less than one hundred dollars ($100) nor more than two thousand dollars ($2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

(g)In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(h)The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

CC §1950.5: Security deposits

(a)This section applies to security for a rental agreement for residential property that is used as the dwelling of the tenant.

(b)As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, any payment, fee, deposit, or charge, except as provided in Section 1950.6, that is imposed at the beginning of the tenancy to be used to reimburse the landlord for costs associated with processing a new tenant or that is imposed as an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1)The compensation of a landlord for a tenant's default in the payment of rent.

(2)The repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant.

(3)The cleaning of the premises upon termination of the tenancy necessary to return the unit to the same level of cleanliness it was in at the inception of the tenancy. The amendments to this paragraph enacted by the act adding this sentence shall apply only to tenancies for which the tenant's right to occupy begins after January 1, 2003.

(4)To remedy future defaults by the tenant in any obligation under the rental agreement to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear, if the security deposit is authorized to be applied thereto by the rental agreement.

(c)A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent, in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy.

This subdivision does not prohibit an advance payment of not less than six months' rent if the term of the lease is six months or longer.

This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d)Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e)The landlord may claim of the security only those amounts as are reasonably necessary for the purposes specified in subdivision (b). The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f)(1)Within a reasonable time after notification of either party's intention to terminate the tenancy, or before the end of the lease term, the landlord shall notify the tenant in writing of his or her option to request an initial inspection and of his or her right to be present at the inspection. The requirements of this subdivision do not apply when the tenancy is terminated pursuant to subdivision (2), (3), or (4) of Section 1161 of the Code of Civil Procedure. At a reasonable time, but no earlier than two weeks before the termination or the end of lease date, the landlord, or an agent of the landlord, shall, upon the request of the tenant, make an initial inspection of the premises prior to any final inspection the landlord makes after the tenant has vacated the premises. The purpose of the initial inspection shall be to allow the

tenant an opportunity to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement, in order to avoid deductions from the security. If a tenant chooses not to request an initial inspection, the duties of the landlord under this subdivision are discharged. If an inspection is requested, the parties shall attempt to schedule the inspection at a mutually acceptable date and time. The landlord shall give at least 48 hours' prior written notice of the date and time of the inspection if either a mutual time is agreed upon, or if a mutually agreed time cannot be scheduled but the tenant still wishes an inspection. The tenant and landlord may agree to forgo the 48-hour prior written notice by both signing a written waiver. The landlord shall proceed with the inspection whether the tenant is present or not, unless the tenant previously withdrew his or her request for the inspection.

(2)Based on the inspection, the landlord shall give the tenant an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the security the landlord intends to make pursuant to paragraphs (1) to (4), inclusive of subdivision (b). This statement shall also include the texts of paragraphs (1) to (4), inclusive, of subdivision (b). The statement shall be given to the tenant, if the tenant is present for the inspection, or shall be left inside the premises.

(3)The tenant shall have the opportunity during the period following the initial inspection until termination of the tenancy to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement, in order to avoid deductions from the security.

(4)Nothing in this subdivision shall prevent a landlord from using the security for deductions itemized in the statement provided for in paragraph (2) that were not cured by the tenant so long as the deductions are for damages authorized by this section.

(5)Nothing in this subdivision shall prevent a landlord from using the security for any purpose specified in paragraphs (1) to (4), inclusive, of subdivision (b) that occurs between completion of the initial inspection and termination of the tenancy or was not identified during the initial inspection due to the presence of a tenant's possessions.

(g)(1)No later than 21 calendar days after the tenant has vacated the premises, but not earlier than the time that either the landlord or the tenant provides a notice to terminate the tenancy under Section 1946 or 1946.1, Section 1161 of the Code of Civil Procedure, or not earlier than 60 calendar days prior to the expiration of a fixed-term lease, the landlord shall furnish the tenant, by personal delivery or by first-class mail, postage prepaid, a copy of an itemized statement indicating the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(2)Along with the itemized statement, the landlord shall also include copies of documents showing charges incurred and deducted by the landlord to repair or clean the premises, as follows:

(A)If the landlord or landlord's employee did the work, the itemized statement shall reasonably describe the work performed. The itemized statement shall include the time spent and the reasonable hourly rate charged.

(B)If the landlord or landlord's employee did not do the work, the landlord shall provide the tenant a copy of the bill, invoice, or receipt supplied by the person or entity performing the work. The itemized statement shall provide the tenant with the name, address, and telephone number of the person or entity, if the bill, invoice, or receipt does not include that information.

(C)If a deduction is made for materials or supplies, the landlord shall provide a copy of the bill, invoice, or receipt. If a particular material or supply item is purchased by the landlord on an ongoing basis, the landlord may document the cost of the item by providing a copy of a bill, invoice, receipt, vendor price list, or other vendor document that reasonably documents the cost of the item used in the repair or cleaning of the unit.

(3)If a repair to be done by the landlord or the landlord's employee cannot reasonably be completed within 21 calendar days after the tenant has vacated the premises, or if the documents from a person or entity providing services, materials, or supplies are not in the landlord's possession within 21 calendar days after the tenant has vacated the premises, the landlord may deduct the amount of a good faith estimate of the charges that will be incurred and provide that estimate with the itemized statement. If the reason for the estimate is because the documents from a person or entity providing services, materials, or supplies are not in the landlord's possession, the itemized statement shall include the name, address, and telephone number of the person or entity. Within 14 calendar days of completing the repair or receiving the documentation, the landlord shall complete the requirements in paragraphs (1) and (2) in the manner specified.

(4)The landlord need not comply with paragraph (2) or (3) if either of the following apply:

(A)The deductions for repairs and cleaning together do not exceed one hundred twenty-five dollars ($125).

(B)The tenant waived the rights specified in paragraphs (2) and (3). The waiver shall only be effective if it is signed by the tenant at the same time or after a notice to terminate a tenancy under Section 1946 or 1946.1 has been given, a notice under Section 1161 of the Code of Civil Procedure has been given, or no earlier than 60 calendar days prior to the expiration of a fixed-term lease. The waiver shall substantially include the text of paragraph (2).

(5)Notwithstanding paragraph (4), the landlord shall comply with paragraphs (2) and (3) when a tenant makes a request for documentation within 14 calendar days after receiving the itemized statement specified in paragraph (1). The landlord shall comply within 14 calendar days after receiving the request from the tenant.

(6)Any mailings to the tenant pursuant to this subdivision shall be sent to the address provided by the tenant. If the tenant does not provide an address, mailings pursuant to this subdivision shall be sent to the unit that has been vacated.

(h)Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1)Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest. The landlord shall thereafter notify the tenant by personal delivery or by first-class mail, postage prepaid, of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2)Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (g).

(i)Prior to the voluntary transfer of a landlord's interest in the premises, the landlord shall deliver to the landlord's successor in interest a written statement indicating the following:

(1)The security remaining after any lawful deductions are made.

(2)An itemization of any lawful deductions from any security received.

(3)His or her election under paragraph (1) or (2) of subdivision (h).

This subdivision does not affect the validity of title to the real property transferred in violation of this subdivision.

(j)In the event of noncompliance with subdivision (h), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (g). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (h), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (h) or provides the tenant with an accounting as provided in subdivision (g).

This subdivision does not preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

Notwithstanding this subdivision, if, upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (h), he or she is not liable for damages as provided in subdivision (*l*), or any security not transferred pursuant to subdivision (h).

(k)Upon receipt of any portion of the security under paragraph (1) of subdivision (h), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(*l*)The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof in violation of this section, or the bad faith demand of replacement security in violation of subdivision (j), may subject the landlord or the landlord's successors in interest to statutory damages of up to twice the amount of the security, in addition to actual damages. The court may award damages for bad faith whenever the facts warrant that award, regardless of whether the injured party has specifically requested relief. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(m)No lease or rental agreement may contain any provision characterizing any security as "nonrefundable."

(n)Any action under this section may be maintained in small claims court if the damages claimed, whether actual or statutory or both, are within the jurisdictional amount allowed by Section 116.220 or 116.221 of the Code of Civil Procedure.

(o)Proof of the existence of and the amount of a security deposit may be established by any credible evidence, including, but not limited to, a canceled check, a receipt, a lease indicating the requirement of a deposit as well as the amount, prior consistent statements or actions of the landlord or tenant, or a statement under penalty of perjury that satisfies the credibility requirements set forth in Section 780 of the Evidence Code.

(p)The amendments to this section made during the 1985 portion of the 1985-86 Regular Session of the Legislature that are set forth in subdivision (e) are declaratory of existing law.

(q)The amendments to this section made during the 2003 portion of the 2003-04 Regular Session of the Legislature that are set forth in paragraph (1) of subdivision (f) are declaratory of existing law.

CC §1962 et seq.: Service on landlord

(a)Any owner of a dwelling structure specified in Section 1961 or a party signing a rental agreement or lease on behalf of the owner shall do all of the following:

(1)Disclose therein the name, telephone number, and usual street address at which personal service may be effected of each person who is:

(A)Authorized to manage the premises.

(B)An owner of the premises or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

(2)Disclose therein the name, telephone number, and address of the person or entity to whom rent payments shall be made.

(A)If rent payments may be made personally, the usual days and hours that the person will be available to receive the payments shall also be disclosed.

(B)At the owner's option, the rental agreement or lease shall instead disclose the number of either:

(i)The account in a financial institution into which rent payments may be made, and the name and street address of the institution; provided that the institution is located within five miles of the rental property.

(ii)The information necessary to establish an electronic funds transfer procedure for paying the rent.

(3)Disclose therein the form or forms in which rent payments are to be made.

(4)Provide a copy of the rental agreement or lease to the tenant within 15 days of its execution by the tenant. Once each calendar year thereafter, upon request by the tenant, the owner or owner's agent shall provide an additional copy to the tenant within 15 days. If the owner or owner's agent does not possess the rental agreement or lease or a copy of it, the owner or owner's agent shall instead furnish the tenant with a written statement stating that fact and containing the information required by paragraphs (1), (2), and (3) of subdivision (a).

(b)In the case of an oral rental agreement, the owner, or a person acting on behalf of the owner for the receipt of rent or otherwise, shall furnish the tenant, within 15 days of the agreement, with a written statement containing the information required by paragraphs (1), (2), and (3) of subdivision (a). Once each calendar year thereafter, upon request by the tenant, the owner or owner's agent shall provide an additional copy of the statement to the tenant within 15 days.

(c)The information required by this section shall be kept current and this section shall extend to and be enforceable against any successor owner or manager, who shall comply with this section within 15 days of succeeding the previous owner or manager.

(d)A party who enters into a rental agreement on behalf of the owner who fails to comply with this section is deemed an agent of each person who is an owner:

(1)For the purpose of service of process and receiving and receipting for notices and demands.

(2)For the purpose of performing the obligations of the owner under law and under the rental agreement.

(3)For the purpose of receiving rental payments, which may be made in cash, by check, by money order, or in any form previously accepted by the owner or owner's agent, unless the form of payment has been

specified in the oral or written agreement, or the tenant has been notified by the owner in writing that a particular form of payment is unacceptable.

(e)Nothing in this section limits or excludes the liability of any undisclosed owner.

(f)If the address provided by the owner does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed receivable by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner.

CC §1962.5

(a)Notwithstanding subdivisions (a) and (b) of Section 1962, the information required by paragraph (1) of subdivision (a) of Section 1962 to be disclosed to a tenant may, instead of being disclosed in the manner described in subdivisions (a) and (b) of Section 1962, be disclosed by the following method:

(1)In each dwelling structure containing an elevator a printed or typewritten notice containing the information required by paragraph (1) of subdivision (a) of Section 1962 shall be placed in every elevator and in one other conspicuous place.

(2)In each structure not containing an elevator, a printed or typewritten notice containing the information required by paragraph (1) of subdivision (a) of Section 1962 shall be placed in at least two conspicuous places.

(3)In the case of a single unit dwelling structure, the information to be disclosed under this section may be disclosed by complying with either paragraph (1) or (2).

(b)Except as provided in subdivision (a), all the provisions of Section 1962 shall be applicable.

CC §1962.7

In the event an owner, successor owner, manager, or agent specified in Section 1961 fails to comply with the requirements of this chapter, service of process by a tenant with respect to a dispute arising out of the tenancy may be made by registered or certified mail sent to the address at which rent is paid, in which case the provisions of Section 1013 of the Code of Civil Procedure shall apply.

CCP §1029.8: Treble damages for injury caused by a unlicensed contractor

(a)Any unlicensed person who causes injury or damage to another person as a result of providing goods or performing services for which a license is required under Division 2 (commencing with Section 500) or any initiative act referred to therein, Division 3 (commencing with Section 5000), or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8, of the Business and Professions Code, or Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with Section 25230) of Part 3 of Division 1 of Title 4 of the Corporations Code, shall be liable to the injured person for treble the amount of damages assessed in a civil action in any court having proper jurisdiction. The court may, in its discretion, award all costs and attorney's fees to the injured person if that person prevails in the action.

(b)This section shall not be construed to confer an additional cause of action or to affect or limit any other remedy, including, but not limited to, a claim for exemplary damages.

(c)The additional damages provided for in subdivision (a) shall not exceed ten thousand dollars ($10,000).

(d)For the purposes of this section, the term "unlicensed person" shall not apply to any of the following:

(1)Any person, partnership, corporation, or other entity providing goods or services under the good faith belief that they are properly licensed and acting within the proper scope of that licensure.

(2)Any person, partnership, corporation, or other entity whose license has expired for nonpayment of license renewal fees, but who is eligible to renew that license without the necessity of applying and qualifying for an original license.

(3)Any person, partnership, or corporation licensed under Chapter 6 (commencing with Section 2700) or Chapter 6.5 (commencing with Section 2840) of the Business and Professions Code, who provides professional nursing services under an existing license, if the action arises from a claim that the licensee exceeded the scope of practice authorized by his or her license.

(e)This section shall not apply to any action for unfair trade practices brought against an unlicensed person under Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code, by a person who holds a license that is required, or closely related to the license that is required, to engage in those activities performed by the unlicensed person.

Labor Code §203: Damages for not paying wages timely

(a)If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.

(b)Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

VC §24007: Smog certification

(a)(1)No dealer or person holding a retail seller's permit shall sell a new or used vehicle that is not in compliance with this code and departmental regulations adopted pursuant to this code, unless the vehicle is sold to another dealer, sold for the purpose of being legally wrecked or dismantled, or sold exclusively for off-highway use.

(2)Paragraph (1) does not apply to any vehicle sold by either (A) a dismantler after being reported for dismantling pursuant to Section 11520 or (B) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 or a nonrepairable vehicle certificate issued pursuant to Section 11515.2.

(3)Notwithstanding paragraph (1), the equipment requirements of this division do not apply to the sale of a leased vehicle by a dealer to a lessee if the lessee is in possession of the vehicle immediately prior to the time of the sale and the vehicle is registered in this state.

(b)(1)Except as provided in Section 24007.5, no person shall sell, or offer or deliver for sale, to the ultimate purchaser, or to any subsequent purchaser a new or used motor vehicle, as those terms are defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, subject to Part 5 (commencing with Section 43000) of that Division 26 which is not in compliance with that part and the rules and regulations of the State Air Resources Board, unless the vehicle is sold to a dealer or sold for the purpose of being legally wrecked or dismantled.

(2)Prior to or at the time of delivery for sale, the seller shall provide the purchaser a valid certificate of compliance or certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(3)Paragraph (2) does not apply to any vehicle whose transfer of ownership and registration is described in subdivision (d) of Section 4000.1.

(4)Paragraphs (1) and (2) do not apply to any vehicle sold by either (A) a dismantler after being reported for dismantling pursuant to Section 11520 or (B) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 or a nonrepairable vehicle certificate issued pursuant to Section 11515.2.

(c)(1)With each application for initial registration of a new motor vehicle or transfer of registration of a motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a dealer, the purchaser, or his or her authorized representative, shall transmit to the Department of Motor Vehicles a valid certificate of compliance or noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(2)Notwithstanding paragraph (1) of this subdivision, with respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, a dealer may transmit, in lieu of a certificate of compliance, a statement, in a form and containing information deemed necessary and appropriate by the Director of Motor Vehicles and the Executive Officer of the State Air Resources Board, to attest to the vehicle's compliance with that chapter. The statement shall be certified under penalty of perjury, and shall be signed by the dealer or the dealer's authorized representative.

(3)Paragraph (1) does not apply to a transfer of ownership and registration under any of the circumstances described in subdivision (d) of Section 4000.1.

VC §22658 et seq.: Rules for towing from private and for parking lots

(a)The owner or person in lawful possession of private property, including an association of a common interest development as defined in Section 1351 of the Civil Code, may cause the removal of a vehicle parked on the property to a storage facility that meets the requirements of subdivision (n) under any of the following circumstances:

(1)There is displayed, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the owner or person in lawful possession of the property. The sign may also indicate that a citation may also be issued for the violation.

(2)The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice.

(3)The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner or person in lawful possession of the private property has notified the local traffic law enforcement agency, and 24 hours have elapsed since that notification.

(4)The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b)The tow truck operator removing the vehicle, if the operator knows or is able to ascertain from the property owner, person in lawful possession of the property, or the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner of the vehicle, shall immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a storage facility, a copy of the notice shall be given to the proprietor of the storage facility. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal and the time of the removal from the property. If the tow truck operator does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the tow truck operator shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c)This section does not limit or affect any right or remedy that the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d)The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of a person causing the removal of, or removing, the vehicle.

(e)(1)An owner or person in lawful possession of private property, or an association of a common interest development, causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to comply with paragraph (1), (2), or (3) of subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).

(2)A property owner or owner's agent or lessee who causes the removal of a vehicle parked on that property pursuant to the exemption set forth in subparagraph (A) of paragraph (1) of subdivision (*l*) and fails to comply with that subdivision is guilty of an infraction, punishable by a fine of one thousand dollars ($1,000).

(f)An owner or person in lawful possession of private property, or an association of a common interest development, causing the removal of a vehicle parked on that property shall notify by telephone or, if impractical, by the most expeditious means available, the local traffic law enforcement agency within one hour after authorizing the tow. An owner or person in lawful possession of private property, an association of a common interest development, causing the removal of a vehicle parked on that property, or the tow truck operator who removes the vehicle, shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. A towing company that removes a vehicle from private property in compliance with subdivision (*l*) is not responsible in a situation relating to the validity of the removal. A towing company that removes the vehicle under this section shall be responsible for the following:

(1)Damage to the vehicle in the transit and subsequent storage of the vehicle.

(2)The removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g)(1)(A)Possession of a vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

(B)Upon the request of the owner of the vehicle or that owner's agent, the towing company or its driver shall immediately and unconditionally release a vehicle that is not yet removed from the private property and in transit.

(C)A person failing to comply with subparagraph (B) is guilty of a misdemeanor.

(2)If a vehicle is released to a person in compliance with subparagraph (B) of paragraph (1), the vehicle owner or authorized agent shall immediately move that vehicle to a lawful location.

(h)A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner, the owner's agent, or the person in lawful possession of the private property pursuant to this section if the owner of the vehicle or the vehicle owner's agent returns to the vehicle after the vehicle is coupled to the tow truck by means of a regular hitch, coupling device, drawbar, portable dolly, or is lifted off the ground by means of a conventional trailer, and before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

(i)(1)(A)A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge exceeds the greater of the following:

(i)That which would have been charged for that towing or storage, or both, made at the request of a law enforcement agency under an agreement between a towing company and the law enforcement agency that exercises primary jurisdiction in the city in which is located the private property from which the vehicle was, or was attempted to be, removed, or if the private property is not located within a city, then the law enforcement agency that exercises primary jurisdiction in the county in which the private property is located.

(ii)That which would have been charged for that towing or storage, or both, under the rate approved for that towing operator by the California Highway Patrol for the jurisdiction in which the private property is located and from which the vehicle was, or was attempted to be, removed.

(B)A towing operator shall make available for inspection and copying his or her rate approved by the California Highway Patrol, if any, with in 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.

(2)If a vehicle is released within 24 hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for a vehicle released the same day that it is stored.

(3)If a request to release a vehicle is made and the appropriate fees are tendered and documentation establishing that the person requesting release is entitled to possession of the vehicle, or is the owner's insurance representative, is presented within the initial 24 hours of storage, and the storage facility fails to comply with the request to release the vehicle or is not open for business during normal business hours, then only one day's storage charge may be required to be paid until after the first business day. A business day is any day in which the lienholder is open for business to the public for at least eight hours. If a request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full calendar day basis for each day, or part thereof, that the vehicle is in storage.

(j)(1)A person who charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), is civilly liable to the vehicle owner for four times the amount charged.

(2)A person who knowingly charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), or who fails to make available his or her rate as required in subparagraph (B) of paragraph (1) of subdivision (i), is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(k)(1)A person operating or in charge of a storage facility where vehicles are stored pursuant to this section shall accept a valid credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. "Credit card" means "credit card" as defined in subdivision (a) of Section 1747.02 of the Civil Code, except for the purposes of this section, credit card does not include a credit card issued by a retail seller.

(2)A person described in paragraph (1) shall conspicuously display, in that portion of the storage facility office where business is conducted with the public, a notice advising that all valid credit cards and cash are acceptable means of payment.

(3)A person operating or in charge of a storage facility who refuses to accept a valid credit card or who fails to post the required notice under paragraph (2) is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(4)A person described in paragraph (1) who violates paragraph (1) or (2) is civilly liable to the registered owner of the vehicle or the person who tendered the fees for four times the amount of the towing and storage charges.

(5)A person operating or in charge of the storage facility shall have sufficient moneys on the premises of the primary storage facility during normal business hours to accommodate, and make change in, a reasonable monetary transaction.

(6)Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (i).

(*l*)(1)(A)A towing company shall not remove or commence the removal of a vehicle from private property without first obtaining the written authorization from the property owner or lessee, including an association of a common interest development, or an employee or agent thereof, who shall be present at the time of removal and verify the alleged violation, except that presence and verification is not required if the person authorizing the tow is the property owner, or the owner's agent who is not a tow operator, of a residential rental property of 15 or fewer units that does not have an onsite owner, owner's agent or employee, and the tenant has verified the violation, requested the tow from that tenant's assigned parking space, and

provided a signed request or electronic mail, or has called and provides a signed request or electronic mail within 24 hours, to the property owner or owner's agent, which the owner or agent shall provide to the towing company within 48 hours of authorizing the tow. The signed request or electronic mail shall contain the name and address of the tenant, and the date and time the tenant requested the tow. A towing company shall obtain within 48 hours of receiving the written authorization to tow a copy of a tenant request required pursuant to this subparagraph. For the purpose of this subparagraph, a person providing the written authorization who is required to be present on the private property at the time of the tow does not have to be physically present at the specified location of where the vehicle to be removed is located on the private property.

(B)The written authorization under subparagraph (A) shall include all of the following:

(i)The make, model, vehicle identification number, and license plate number of the removed vehicle.

(ii)The name, signature, job title, residential or business address and working telephone number of the person, described in subparagraph (A), authorizing the removal of the vehicle.

(iii)The grounds for the removal of the vehicle.

(iv)The time when the vehicle was first observed parked at the private property.

(v)The time that authorization to tow the vehicle was given.

(C)(i)When the vehicle owner or his or her agent claims the vehicle, the towing company prior to payment of a towing or storage charge shall provide a photocopy of the written authorization to the vehicle owner or the agent.

(ii)If the vehicle was towed from a residential property, the towing company shall redact the information specified in clause (ii) of subparagraph (B) in the photocopy of the written authorization provided to the vehicle owner or the agent pursuant to clause (i).

(iii)The towing company shall also provide to the vehicle owner or the agent a separate notice that provides the telephone number of the appropriate local law enforcement or prosecuting agency by stating "If you believe that you have been wrongfully towed, please contact the local law enforcement or prosecuting agency at [insert appropriate telephone number]." The notice shall be in English and in the most populous language, other than English, that is spoken in the jurisdiction.

(D)A towing company shall not remove or commence the removal of a vehicle from private property described in subdivision (a) of Section 22953 unless the towing company has made a good faith inquiry to determine that the owner or the property owner's agent complied with Section 22953.

(E)(i)General authorization to remove or commence removal of a vehicle at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of a vehicle unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner which interferes with an entrance to, or exit from, the private property.

(ii)In those cases in which general authorization is granted to a towing company or its affiliate to undertake the removal or commence the removal of a vehicle that is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or that interferes with an entrance to, or exit from, private property, the towing company and the property owner, or owner's agent, or person in lawful possession of the private property shall have a written agreement granting that general authorization.

(2)If a towing company removes a vehicle under a general authorization described in subparagraph (E) of paragraph (1) and that vehicle is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner that interferes with an entrance to, or exit from, the private property, the towing company shall take, prior to the removal of that vehicle, a photograph of the vehicle that clearly indicates that parking

violation. Prior to accepting payment, the towing company shall keep one copy of the photograph taken pursuant to this paragraph, and shall present that photograph and provide, without charge, a photocopy to the owner or an agent of the owner, when that person claims the vehicle.

(3)A towing company shall maintain the original written authorization, or the general authorization described in subparagraph (E) of paragraph (1) and the photograph of the violation, required pursuant to this section, and any written requests from a tenant to the property owner or owner's agent required by subparagraph (A) of paragraph (1), for a period of three years and shall make them available for inspection and copying within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.

(4)A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(5)A person who violates this subdivision is civilly liable to the owner of the vehicle or his or her agent for four times the amount of the towing and storage charges.

(m)(1)A towing company that removes a vehicle from private property under this section shall notify the local law enforcement agency of that tow after the vehicle is removed from the private property and is in transit.

(2)A towing company is guilty of a misdemeanor if the towing company fails to provide the notification required under paragraph (1) within 60 minutes after the vehicle is removed from the private property and is in transit or 15 minutes after arriving at the storage facility, whichever time is less.

(3)A towing company that does not provide the notification under paragraph (1) within 30 minutes after the vehicle is removed from the private property and is in transit is civilly liable to the registered owner of the vehicle, or the person who tenders the fees, for three times the amount of the towing and storage charges.

(4)If notification is impracticable, the times for notification, as required pursuant to paragraphs (2) and (3), shall be tolled for the time period that notification is impracticable. This paragraph is an affirmative defense.

(n)A vehicle removed from private property pursuant to this section shall be stored in a facility that meets all of the following requirements:

(1)(A)Is located within a 10-mile radius of the property from where the vehicle was removed.

(B)The 10-mile radius requirement of subparagraph (A) does not apply if a towing company has prior general written approval from the law enforcement agency that exercises primary jurisdiction in the city in which is located the private property from which the vehicle was removed, or if the private property is not located within a city, then the law enforcement agency that exercises primary jurisdiction in the county in which is located the private property.

(2)(A)Remains open during normal business hours and releases vehicles after normal business hours.

(B)A gate fee may be charged for releasing a vehicle after normal business hours, weekends, and state holidays. However, the maximum hourly charge for releasing a vehicle after normal business hours shall be one-half of the hourly tow rate charged for initially towing the vehicle, or less.

(C)Notwithstanding any other provision of law and for purposes of this paragraph, "normal business hours" are Monday to Friday, inclusive, from 8 a.m. to 5 p.m., inclusive, except state holidays.

(3)Has a public pay telephone in the office area that is open and accessible to the public.

(o)(1)It is the intent of the Legislature in the adoption of subdivision (k) to assist vehicle owners or their agents by, among other things, allowing payment by credit cards for towing and storage services, thereby expediting the recovery of towed vehicles and concurrently promoting the safety and welfare of the public.

(2)It is the intent of the Legislature in the adoption of subdivision (l) to further the safety of the general public by ensuring that a private property owner or lessee has provided his or her authorization for the removal of a vehicle from his or her property, thereby promoting the safety of those persons involved in ordering the removal of the vehicle as well as those persons removing, towing, and storing the vehicle.

(3)It is the intent of the Legislature in the adoption of subdivision (g) to promote the safety of the general public by requiring towing companies to unconditionally release a vehicle that is not lawfully in their possession, thereby avoiding the likelihood of dangerous and violent confrontation and physical injury to vehicle owners and towing operators, the stranding of vehicle owners and their passengers at a dangerous time and location, and impeding expedited vehicle recovery, without wasting law enforcement's limited resources.

(p)The remedies, sanctions, restrictions, and procedures provided in this section are not exclusive and are in addition to other remedies, sanctions, restrictions, or procedures that may be provided in other provisions of law, including, but not limited to, those that are provided in Sections 12110 and 34660.

VC §22658.1

(a)Any towing company that, in removing a vehicle, cuts, removes, otherwise damages, or leaves open a fence without the prior approval of the property owner or the person in charge of the property shall then and there do either of the following:

(1)Locate and notify the owner or person in charge of the property of the damage or open condition of the fence, the name and address of the towing company, and the license, registration, or identification number of the vehicle being removed.

(2)Leave in a conspicuous place on the property the name and address of the towing company, and the license, registration, or identification number of the vehicle being removed, and shall without unnecessary delay, notify the police department of the city in which the property is located, or if the property is located in unincorporated territory, either the sheriff or the local headquarters of the Department of the California Highway Patrol, of that information and the location of the damaged or opened fence.

(b)Any person failing to comply with all the requirements 006Ff this section is guilty of an infraction.

Venue: Challenging Venue in Small Claims Court (CCP 116.370)

What is Venue?

Venue is the place of a cause of action and the jurisdiction where a case is heard. A case must be filed in the correct court location and venue. The appropriate venue must be one of the following:

- Where the Defendant lives or Defendant's business is located.
- Where the Plaintiff's property was damaged.
- Where the Plaintiff was injured.
- Where a contract (written or spoken) was made, signed, performed, or broken by the Defendant ***or*** where the Defendant lived or did business when the Defendant made the contract[1]

How Do I Challenge Venue?

If you feel that the plaintiff has filed in the wrong court, or venue, you may be able to challenge that venue.

- Challenge venue by writing a letter to the court. Address the letter to the judge (Dear Judge, name not needed), explaining why the plaintiff's choice of venue was incorrect and send a copy of your letter to the other party. Make sure you include a notation in the letter that you mailed it to the other party.

You may also:

- Challenge venue by objecting to the venue at the hearing. If the judge decides that the plaintiff's choice of venue was proper, then the hearing will proceed. If the judge decides that the plaintiff's choice of venue was improper, the case may be transferred to the proper venue or dismissed without prejudice. If the case is dismissed, the plaintiff may then sue you in the proper venue.

NOTE: If you feel that it would be more convenient to have the hearing in the county selected by the plaintiff (because, for example, you live in a neighborhood county only five miles from the courthouse), you could appear at the hearing and waive (give up) your right to challenge venue.

Must I Appear at the Hearing?

If you have challenged venue by submitting a letter, you do not need to attend the hearing. If the judge believes the venue is proper and you are not present at the hearing, the judge cannot render a decision on the plaintiff's claim and must postpone

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[1] Other rarely used venue provisions

- Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if a claim is about an offer or contract for personal, family, or household goods, services or loans. (CCP § 395(b))
- Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (CC § 1812.10)
- Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (CC § 2984.4)

the hearing for 15 days. If the judge believes the venue is improper, then the case will either be transferred or dismissed without prejudice.

Here is the exact language in the statute:

> CCP 116.370 (c)(2) If the court determines that the action was commenced in the proper venue and court location, the court may hear the case if all parties are present. If the defendant challenged venue or court location and all parties are not present, the court shall postpone the hearing for at least 15 days and shall notify all parties by mail of the court's decision and the new hearing date, time, and place.

Even if you do not challenge venue, it is the judge's obligation to find that the location of the hearing is proper. Also, even if the location of the court selected by the plaintiff is correct the judge may, on rare occasion, transfer the case to another court that is more convenient for the parties and their witnesses (for example, you have many witnesses who must travel to the court from a distant location), the judge may order that the case be transferred to a court near that location. In evaluating transfer requests, the courts give greater weight to the convenience of those disputants who are individuals rather than those that are legal entities such as corporations, partnerships, and public entities.

SAMPLE LETTER:

John Smith (Your name and address)
123 Sunnyside Ave.
San Francisco, CA 90000
(510) 555-1234

(DATE)

Judge of the Superior Court
County of Orange
700 Civic Center Dr.
Santa Ana, CA 92701

Re: Improper Venue

Dear Judge,

I am the defendant in case number _____ and I wish to challenge the venue chosen by the plaintiff. The current venue is improper because_____
(for example: My business is located in San Francisco. The plaintiff called me in San Francisco and ordered three boxes of widgets. Those widgets were shipped from my

facility in San Francisco. The defendant sent payment to me in San Francisco yet, the defendant is suing me in Orange County). I believe the proper venue for this case is _____ (San Francisco because everything happened in San Francisco). Thank you for your consideration.

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

Sincerely,

_____
John Smith

JS/

Copy: Joe Plaintiff, 123 Melrose Pl., Santa Ana, CA 92701
(You need to show to the Judge that you sent a copy of this letter to the other party.)

For more information or assistance you can contact:
Small Claims Advisory Program
Legal Aid Society of Orange County
2101 N. Tustin Ave.
Santa Ana, CA 92705
Phone: (714) 571-5277
www.ocsmallclaims.com

Code of Civil Procedure:
www.leginfo.ca.gov/calaw.html

Revised 4/10

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Towing Company – How to Sue a Towing Company

My Car Was Towed, What Can I Do?

File a small claims case. Consider suing the tow company, the owner of the property where the vehicle was parked, and the property management all at the same time.

- Complete the "Plaintiff's Claim and Order to go to Small Claims Court." (Form SC 100).
- For help filling out the form, go to:

Legal Resolutions Center of the Legal Aid Society of Orange County (www.legalresolutions.com)

Who Can I Sue, For What, and For How Much?

You may sue the **owner or representative** of the parking lot from which your car was towed for:

- Failure to have the proper sign posted.
    - The owner must display in plain view at all entrances to the property a sign not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency. Vehicle Code 22658 Section (a)(1)
    - The owner of the lot is liable for up to double the towing or storage charges if the proper sign is not posted. Vehicle Code 22658 Section (e)(1)
- Failure to state grounds for towing.
    - If the owner does not tell you the reason for having your car towed, he/she may be liable for up to double the towing or storage charges. Vehicle Code 22658 Section (f), Section (e)(1)(a)

You may sue the **towing company** that impounded your car for:

- Excessive Charges.
    - If you are charged a towing, service, or storage charge at an excessive rate, the owner of the towing company may be liable for up to four times the towing AND storage charges you received. Vehicle Code 22658 Section (j)
    - To find out whether the tow company has charged you an excessive fee, contact the police or sheriff in the city where the vehicle was towed.
- Removal without lot or land owner present AND current written authorization by the lot or land owner
    - The person who called the towing company to have your car removed must be present at the time of removal. Vehicle Code 22658 Section (l)(1)(A)
    - Written authorization must be provided at the time the car is removed. Blanket authorizations are not permissible unless the vehicle is blocking an entrance or exit or marked fire lane. Vehicle Code 22658 Section (l)(1)(A), Section (l)(1)(E)(i)

    - The towing company will be liable for up to four times the towing AND storage charges if the above requirements are not met. Vehicle Code 22658 Section (l)(5)
- Failure to accept Master or Visa Card
    - The towing company is required by law to accept valid credit cards as payment for towing and storage charges. Vehicle Code 22658 Section (k)(1)
    - If the company refuses to accept a valid credit card payment, it may be liable for up to four times the towing AND storage charges, with a maximum of $500. Vehicle Code 22658 Section (k)(4)

Towee Checklist – What Do I Need to Do?

- Take pictures of the sign(s) notifying drivers that their car may be subject to towing. Whether or not a sign is present, take pictures of the entrances and location of where the vehicle was parked.
- Obtain copies of the towing charges and storage charges you were forced to pay.
- Call your local city/county law enforcement and ask how much a towing company will charge to tow or store your vehicle upon their request. If the amount you paid is over this amount, the towing company may be liable for four times the amount of towing and storage charges you received.
- When you pick up your car, call the police or bring a witness with you.
- Ask the towing company for the name of the owner of the parking lot or the person who authorized the tow.
    - Ask if that person was there in person when your car was towed.
- Ask to see the authorization document this person signed and gave to the tow truck driver at the time your car was towed.
    - Ask for a copy of this document. A refusal will almost always mean they don't have it!
- Politely ask the owner or representative of the lot where your car was towed from if they were present at the time your car was towed away. You can bet they were home in bed and not present when your car was towed.

For more information or assistance you can contact:
Legal Aid Society of Orange County
2101 N. Tustin Ave.
Santa Ana, CA 92705
Phone: (714) 571-5277
www.ocsmallclaims.com

California Code of Civil Procedure
www.leginfo.ca.gov/calaw.html

Revised 4/10

Residential Rental Security Deposits

WHAT IS A SECURITY DEPOSIT?

Payments collected in advance by the landlord from the tenant to protect them against non-payment of rent or property damage, (whether it is *last month's rent*, *security*, *cleaning*, etc.), is considered to be a form of security deposit subject to these regulations. (Civil Code 1950.5(b)).

HOW MUCH IS TOO MUCH?

- *Unfurnished rental unit* - The security deposit cannot be more than two month's rent.
- *Furnished rental unit* - The security deposit cannot be more than three month's rent.

(Civil Code 1950.5(c))

HOW DEPOSIT SHOULD BE HANDLED

After moving out, a tenant must receive from the landlord within three weeks either a return of the entire rental deposit or an itemized statement of deductions and the balance of the deposit.

- If the tenant believes the deductions are improper, then he should write to the landlord and keep a copy of the letter. This step is meant to show that the tenant attempted to settle the dispute with the landlord before going to court (Code of Civil Procedure 116.320 (b)(3))
- If the disagreement is not settled, the tenant can file a suit (SC-100) in small claims court for the deposit plus statutory damages of up to twice the amount of the security, in addition to actual damages. These damages may be rewarded if the judge believes that the landlord acted in bad faith (Civil Code 1950.5(l)).

WHO SHOULD BE NAMED ON THE CLAIM?

If an individual or business owns the unit, name that individual or business in your claim. You may also consider naming the management company as an additional defendant if you think you have a claim against it as well.

-You can check the County Recorder's Office to determine who owns the property

-For larger apartment complexes, contact City Hall and see who holds the business license

WHERE TO SERVE YOUR CLAIM

In the event an owner, successor owner, manager, or agent fails to comply with the requirements of this chapter, service of process by a tenant with respect to a dispute arising out of the tenancy may be made by registered or certified mail sent to the address at which rent is paid, in which case the provisions of Section 1013 of the Code of Civil Procedure shall apply. (Civil Code 1962.7)

LANDLORD'S RESPONSIBILITIES

On Rental Agreement:

Under CC.1962(a), any owner of a dwelling structure specified in Section 1961 or a party signing a rental agreement or lease on behalf of the owner shall do all of the following:
(1) Disclose therein the name, telephone number, and usual street address at which personal service may be effected of each person who is

(A) Authorized to manage the premises.

(B) An owner of the premises or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

(2) Disclose therein the name, telephone number, and address of the person or entity to whom rent payments shall be made.
(3) Disclose therein the form or forms in which rent payments are to be made.
(4) Provide a copy of the rental agreement or lease to the tenant within 15 days of its execution by the tenant. Once each calendar year thereafter, upon request by the tenant, the owner or owner's agent shall provide an additional copy to the tenant within 15 days. If the owner or owner's agent does not possess the rental agreement or lease or a copy of it, the owner or owner's agent shall instead furnish the tenant with a written statement stating that fact and containing the information required by paragraphs (1), (2), (3), of subdivision (a).

Withholding the Security Deposit:
The landlord must prove the amounts deducted from the security deposit were necessary and reasonable. He must also take the following steps for the withholding to be considered proper:

1. Within three weeks of moving out and turning in the keys, the landlord must send a full refund of the security deposit or an itemized statement that lists reasons and amounts of any deductions from the deposit, with a refund of any amounts not deducted.
2. The landlord may withhold from the security deposit only those amounts that are reasonably necessary including: unpaid rent, repair of damages other than normal wear and tear, and for cleaning the rental unit (CC 1950.5(b)).

   NOTE: The tenant must have the chance to fix the problems to get the deposit back. A landlord cannot require, in advance or routinely, that all tenants pay expenses such as professional cleaning, painting, or replacement of carpets or drapes. Such deductions can be allowed if they can be proven by the condition of the rental unit when the tenant moved in, and the amount of care taken during the tenancy.

   - For further information, you may contact the Fair Housing Council of Orange County at (714) 569-0823.
3. The landlord must provide a copy of the bill, invoice or receipt if a deduction is made (CC 1950.5 (g)(2)(C)).

*Note: *All security deposits must be refundable*.

On Rent and Damages:
Under (CC.1942) (a) If within a reasonable time after notice, written or oral, was given to the landlord or his agent of damages rendering the premises un-tenantable, and they neglect to fix the damages:

- The tenant may do the repairs himself if the cost of such repairs does not require the expenditure of more than one month's rent of the premises and deduct the expenses of such repairs from the rent when due
  *NOTE: For the purpose of this section, if a tenant acts to repair and deduct after the 30th day following notice, he is presumed to have acted after a reasonable time. The presumption established by this subdivision is a rebuttable presumption affecting the burden of producing evidence and shall not be construed to prevent a tenant from repairing and deducting after a shorter notice if all the circumstances require shorter notice
- The tenant may vacate the premises and deduct the expenses of such repairs from the rent when due
- The tenant may vacate the premises, in which case the tenant shall be discharged from further payment of rent, or performance of other conditions as of the date of vacating the premises. (This remedy shall not be available to the tenant more than twice in any 12-month period.)

For more information or assistance you can contact

Legal Aid Society of Orange County
2101 N. Tustin Ave.
Santa Ana, CA 92705
Phone (714) 571-5204
www. ocsmallclaims.com

California Code of Civil Procedure:
www.leginfo.ca.gov/calaw.html

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How to Sue an Unlicensed Contractor

- A person who uses an unlicensed contractor may sue the contractor to recover all money paid for the work they performed.

- A contractor may not sue a property owner to recover compensation for work on a contract unless he or she was licensed at all times while performing the work.

- In either case, it does not matter whether the unlicensed contractor did a good job. A recent court case[1] stated (B&P 7031) strictly prohibits any person from suing to recover compensation for any work he or she did while unlicensed, where such work requires licensure, anytime in performing the work. Furthermore, it is a misdemeanor for any person to engage in the business or act in the capacity of a contractor without having a license (B&P 7028).

- The law was created to protect the public from dishonest, incompetent and irresponsible contractors performing services without a license.

AN EXAMPLE:
Let's say you hire a contractor to build a patio. The entire contract price is $10,000. You pay $5,000 in advance. That initial payment is split: $2,500 for materials and $2,500 for labor. The contractor finishes the job and requests the final payment. If the contractor does not have a license he or she is not entitled to be paid any money. You may even sue the contractor for the first payment of $5,000.

FIRST, DETERMINE WHETHER OR NOT THE WORK REQUIRED A LICENSE
The Contractor State License Law[2] generally only applies to:

- An individual who is doing physical work that alters or adds to a structure, and becomes a part of the real estate.
- The work must have a contract price of $500 or more unless the person advertises as a contractor (B&P 7048).

SECOND, DETERMINE WHETHER OR NOT THE CONTRACTOR HAS A LICENSE
The easiest way to find out whether or not the contractor has a license is to conduct a search by going to the Contractors State License Board's website www.cslb.ca.gov or calling them at 1-800-321-2752.

A contractors license may be automatically suspended by operation of section (B&P 7125.2)* for failure to obtain and maintain worker's compensation insurance.

An *example* would be a contractor who underreported his payroll and, thus did not obtain workers' compensations insurance, furthermore the license would be suspended before, during, and after he performs the work.

*B&P Section 7125.2 states the following: “The failure of a licensee to obtain or maintain workers' compensation insurance coverage, if required under this chapter, shall result in the automatic suspension of the license by operation of law in accordance with the provisions of this section, but this suspension shall no affect, alter, or limit the status of the licensee as an employer for purposes of Section 3716 of the Labor Code.”

FILING A SMALL CLAIMS ACTION AGAINST AN UNLICENSED CONTRACTOR

- Individuals may file a claim in Small Claims court for up to $7500.
- Corporations or other business entities may sue for up to $5,000.

- You may consider naming both the business and the contractor, on the same claim, if he or she performed bad work.
- It is the contractor’s responsibility to prove that they held a valid license at all times while performing work.

Note: It used to be that an unlicensed contractor could still receive payment if they did the work well even though they did not have a license. This is **no longer** available anymore to contractors who were not licensed before signing or working under the contract. Now unlicensed contractors bear the risk of non-payment solely on their own shoulders. The courts will not enforce agreements between property owners and unlicensed contractors involving work performed while the contractor was unlicensed.

The exception:
A contractor whose license has expired has a 90-day grace period to renew the license if he or she can show that the failure to renew occurred because of circumstances beyond their control (B&P 7141.5).

DAMAGES & PENALTIES

Bad Work
In certain situations where you are suing a contractor for work they performed while unlicensed and they did a bad job, you may sue for up to three times the damages. The lawsuit must take place in civil court, and the treble damages may not exceed $10,000. (See CCP 1029.8).

Fraud, False Statements & Misrepresentations
If the contractor told you that he had a license when he actually did not have a license, be sure to include the word “fraud” in your claim. When a property owner is induced to contract for work of improvement in reliance on *false* or *fraudulent representations* or *false statements* knowingly made by a contractor, the property owner may sue and recover a penalty of $500 plus reasonable attorney fees in addition to damages (B&P 7160).

SECURING YOUR JUDGMENT
When you receive your judgment make sure it contains the word “fraud.” This will prevent the defendant from discharging the debt owed to you in bankruptcy.

MORE INFORMATION

- If you have more questions please contact an attorney or your local Small Claims Court Advisor.
- You may also report unlicensed activity to the CSLB: www.cslb.ca.gov/forms/hotleadref.pdf

1) MW Erectors, Inc. v. Niederhauser Ornamental and Metal Works Co. (2005) 36 Cal.4th 412.
2) Business and Professions Code sections 7000-7173.

Produced by the Small Claims Court Advisory Program of the Legal Aid Society of Orange County
Website: www.legal-aid.com

For more information or assistance you can contact:
Legal Aid Society of Orange County
2101 N. Tustin Ave.
Santa Ana, CA 92705
Phone: (714) 571-5277
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California Code of Civil Procedure:
www.leginfo.ca.gov/calaw.html

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ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:	***FOR COURT USE ONLY***
TELEPHONE NO.: FAX NO.: ATTORNEY FOR *(Name)*:	
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
MEMORANDUM OF COSTS AFTER JUDGMENT, ACKNOWLEDGMENT OF CREDIT, AND DECLARATION OF ACCRUED INTEREST	CASE NUMBER:

1. I claim the following costs after judgment incurred within the last two years *(indicate if there are multiple items in any category)*:

		Dates Incurred	Amount
a	Preparing and issuing abstract of judgment		$
b	Recording and indexing abstract of judgment		$
c	Filing notice of judgment lien on personal property		$
d	Issuing writ of execution, to extent not satisfied by Code Civ. Proc., § 685.050 *(specify county)*:		$
e	Levying officers fees, to extent not satisfied by Code Civ. Proc., § 685.050 or wage garnishment		$
f	Approved fee on application for order for appearance of judgment debtor, or other approved costs under Code Civ. Proc., § 708.110 et seq.		$
g	Attorney fees, if allowed by Code Civ. Proc., § 685.040		$
h	Other: *(Statute authorizing cost)*:		$
i	Total of claimed costs for current memorandum of costs *(add items a-h)*		$

2. All previously allowed postjudgment costs: . . . . . $

3. **Total** of all postjudgment costs (add items 1 and 2): . . . . . **TOTAL** $

4. **Acknowledgment of Credit.** I acknowledge total credit to date (including returns on levy process and direct payments) in the amount of: $

5. **Declaration of Accrued Interest.** Interest on the judgment accruing at the legal rate from the date of entry on balances due after partial satisfactions and other credits in the amount of: $

6. I am the ☐ judgment creditor ☐ agent for the judgment creditor ☐ attorney for the judgment creditor.
I have knowledge of the facts concerning the costs claimed above. To the best of my knowledge and belief, the costs claimed are correct, reasonable, and necessary, and have not been satisfied.

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 DECLARANT)

NOTICE TO THE JUDGMENT DEBTOR

If this memorandum of costs is filed at the same time as an application for a writ of execution, any statutory costs, *not exceeding $100 in aggregate* and not already allowed by the court, may be included in the writ of execution. *The fees sought under this memorandum may be disallowed by the court upon a motion to tax filed by the debtor, notwithstanding the fees having been included in the writ of execution.* (Code Civ. Proc., § 685.070(e).) A motion to tax costs claimed in this memorandum must be filed within 10 days after service of the memorandum. (Code Civ. Proc., § 685.070(c).)

(Proof of service on reverse)

SHORT TITLE:	CASE NUMBER:

PROOF OF SERVICE

☐ **Mail** ☐ **Personal Service**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My residence or business address is *(specify)*:

3. I mailed or personally delivered a copy of the *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* as follows *(complete either a or b)*:

   a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
      (1) I enclosed a copy in an envelope AND
         (a) ☐ **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
         (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below 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.
      (2) The envelope was addressed and mailed as follows:
         (a) Name of person served:
         (b) Address on envelope:
         (c) Date of mailing:
         (d) Place of mailing *(city and state)*:

   b. ☐ **Personal delivery.** I personally delivered a copy as follows:
      (1) Name of person served:
      (2) Address where delivered:
      (3) Date delivered:
      (4) Time delivered:

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 DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number and address):*	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO. *(Optional):* E-MAIL ADDRESS *(Optional):* ATTORNEY FOR *(Name):* ☐ ATTORNEY FOR ☐ JUDGMENT CREDITOR ☐ ASSIGNEE OF RECORD	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
WRIT OF ☐ **EXECUTION (Money Judgment)** ☐ **POSSESSION OF** ☐ **Personal Property** ☐ **Real Property** ☐ **SALE**	CASE NUMBER:

1. **To the Sheriff or Marshal of the County of:**

   You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. **To any registered process server:** You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.

3. *(Name):*
   is the ☐ judgment creditor ☐ assignee of record whose address is shown on this form above the court's name.

4. **Judgment debtor** *(name and last known address):*

   ☐ Additional judgment debtors on next page

5. **Judgment entered** on *(date):*

6. ☐ **Judgment renewed** on *(dates):*

7. **Notice of sale** under this writ
   a. ☐ has not been requested.
   b. ☐ has been requested *(see next page).*

8. ☐ Joint debtor information on next page.

9. ☐ See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10. ☐ This writ is issued on a sister-state judgment.

11. Total judgment	$
12. Costs after judgment (per filed order or memo CCP 685.090)	$
13. Subtotal *(add 11 and 12)*	$
14. Credits	$
15. Subtotal *(subtract 14 from 13)*	$
16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees)	$
17. Fee for issuance of writ	$
18. **Total** *(add 15, 16, and 17)*	$
19. Levying officer:	
(a) Add daily interest from date of writ *(at the legal rate on 15)* (not on GC 6103.5 fees) of.	$
(b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68511.3; CCP 699.520(i))	$

20. ☐ The amounts called for in items 11–19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

[SEAL]

Issued on *(date):* Clerk, by _____, Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.

Form Approved for Optional Use
Judicial Council of California
EJ-130 [Rev. January 1, 2006]

WRIT OF EXECUTION
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Code of Civil Procedure, §§ 699.520, 712.010, Government Code, § 6103.5.
www.courtinfo.ca.gov
American LegalNet, Inc.
www.USCourtForms.com

PLAINTIFF: DEFENDANT:	CASE NUMBER:

— **Items continued from page 1**—

21. ☐ **Additional judgment debtor** *(name and last known address):*

22. ☐ **Notice of sale** has been requested by *(name and address):*

23. ☐ **Joint debtor** was declared bound by the judgment (CCP 989–994)
    a. on *(date):*
    b. name and address of joint debtor:
    a. on *(date):*
    b. name and address of joint debtor:
    c. ☐ additional costs against certain joint debtors *(itemize):*

24. ☐ *(Writ of Possession* or *Writ of Sale)* **Judgment** was entered for the following:
    a. ☐ Possession of real property: The complaint was filed on *(date):*
    (Check (1) or (2)):
    (1) ☐ The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46.
    The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
    (2) ☐ The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.
    (a) $ was the daily rental value on the date the complaint was filed.
    (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates *(specify):*
    b. ☐ Possession of personal property.
    ☐ If delivery cannot be had, then for the value *(itemize in 9e)* specified in the judgment or supplemental order.
    c. ☐ Sale of personal property.
    d. ☐ Sale of real property.
    e. Description of property:

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (Form EJ-150).
WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.
WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.
► *A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).*