

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California, 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu Berle, Chair
Patrick O'Donnell, Committee Counsel
Small Claims and Limited Cases Subcommittee
Hon. Mary Thornton House, Chair
Cara Vonk, Subcommittee Counsel, 415-865-7669
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DATE: September 23, 2004

SUBJECT: Unlawful Detainer: Obsolete Pilot Project Pleading Forms (revoke forms 982.1(90S) and 982.1(95S); and amend Cal. Rules of Court, rule 201.2) (Action Required)

Issue Statement

Code of Civil Procedure section 1167.2, which established a pilot project in several trial courts requiring deposit with the court of unpaid prospective rent for the period from the date of commencement of the unlawful detainer action to the date of the anticipated trial, expired and the statute was repealed effective July 1, 1999. Another section that immediately followed the pilot project, Code of Civil Procedure section 1167.25, provided for service on holdover tenants in cases participating in the pilot project. That section was repealed as obsolete effective January 1, 2001, and the related Judicial Council form CP10.6, *Prejudgment Claim of Right to Possession—Unlawful Detainer* was revoked July 1, 2002. The complaint and reply forms developed to implement the unlawful detainer pilot program are obsolete and should also be revoked, and rule 201.2 of the California Rules of Court should be amended to delete its reference to the reply form.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2005:

1. Revoke the *Complaint—Unlawful Detainer (Pilot Project—C.C.P. § 1167.2)* (form 982.1(90S)) and *Reply—Unlawful Detainer (Pilot Project—C.C.P. § 1167.2)* (form 982.1(95S)); and
2. Amend rule 201.2 of the California Rules of Court to delete obsolete form 982.1(95S) from the list of Judicial Council pleading forms and replace it with form 982.1(95), which is the last pleading form in the series after form 982.1(95S) has been revoked.

The text of amended rule 201.2 is attached at page 3. The revoked forms are attached at pages 4–7.

Rationale for Recommendation

The pilot project ended in 1999. Therefore the forms are obsolete and should be repealed. Reference to the form proposed for repeal should be deleted from the rule.

Alternative Actions Considered

No alternative actions were considered.

Comments From Interested Parties

Because these are technical amendments, the proposal was not circulated for comment.

Implementation Requirements and Costs

No special costs are anticipated.

Rule 201.2 of the California Rules of Court is amended, effective January 1, 2005, to read:

1 **Rule 201.2. Judicial Council pleading forms**

2

3 **(a) [Pleading forms]** The forms listed under the "Pleading" heading on the list of
4 Judicial Council forms in division III of the Appendix to the California Rules of
5 Court (forms 982.1(1)-~~982.1(95S)~~982.1(95)) are approved by the Judicial Council
6 as required by Code of Civil Procedure section 425.12.

7

8 **(b)–(c) *****

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS):	TELEPHONE:	FOR COURT USE ONLY
ATTORNEY FOR (NAME):		
NAME OF COURT, JUDICIAL DISTRICT OR BRANCH COURT, IF ANY:		
PLAINTIFF:		
DEFENDANT:		
DOES 1 TO		
COMPLAINT-Unlawful Detainer (Pilot Project-C.C.P. 1167.2) Riverside Consolidated/Coordinated Courts and the Downey, El Cajon and North Santa Barbara County Municipal Courts		COURT CASE NUMBER:

PRETRIAL RENT DEPOSIT DEMAND \$ _____

- REVOKED
1. This pleading including attachments and exhibits consists of the following number of pages:
 2. a. Plaintiff is an individual over the age of 18 years. a partnership.
 a public agency. a corporation.
 other (specify):
 - b. Plaintiff has complied with the fictitious business laws and is doing business under the fictitious name of (specify):
 3. Defendants named above are in possession of the premises at (street address, city, and county):
 4. Plaintiff's interest in the premises is as owner as tenant
 5. The true names and capacities of defendants sued as Does are the following plaintiff.
 6. a. On or about (date): _____ defendant (names): _____
 agreed to rent the premises for a month - to - month tenancy other tenancy (specify):
at a rent of (specify): \$ _____ payable monthly other (specify frequency):
due on the first of the month other day (specify):
 - b. During the last six months, the lowest monthly rent charged for the premises was (specify): \$ _____
 - c. This written oral agreement was made with
 plaintiff plaintiff's predecessor in interest
 plaintiffs agent other (specify):
 - d. The defendants not named in item 6a are
 subtenants assignees other (specify):
 - e. The agreement was later changed as follows (specify):
 - f. A copy of the written agreement is attached and labeled Exhibit A.
 7. Plaintiff has performed all conditions of the rental agreement.
 8. a. The following notice was served on defendant (name):
 3-day notice to pay rent or quit 3-day notice to quit
 3-day notice to perform covenant or quit other (specify):
 - b. The period stated in the notice expired on (date): _____ and defendants failed to
comply with the requirements of the notice by that date.
 - c. All facts stated in the notice are true.
 - d. The notice included an election of forfeiture.
 - e. A copy of the notice is attached and labeled Exhibit B.

(Continued)

SHORT TITLE:	CASE NUMBER:
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COMPLAINT-Unlawful Detainer (Pilot Project-C.C.P.§ 1167.2)

9. a. The notice referred to in item 8 was served
- by personally handing a copy to defendant on *(date)*:
 - by leaving a copy with *(name or description)* of suitable age or discretion, on *(date)* at defendant's residence
 - business AND mailing a copy to defendant at his or her place of residence on *(date)*: because defendant cannot be found at his or her residence or usual place of business.
 - by posting a copy on the premises on *(date)*: (and giving a copy to a person residing at the premises) AND mailing a copy to defendant at the premises on *(date)*:
 - because defendant's residence and usual place of business cannot be ascertained OR
 - because no person of suitable age or discretion can there be found.
 - (not for 3-day notice. See Civil Procedure Section 1946 before using)* by sending a copy by certified or registered mail addressed to defendant on *(date)*.
- b. information about service of the notice on the defendants is contained in attachment 9.
10. The premises have no outstanding citation(s) issued by a local government agency for violations of law pertaining to health, safety, housing, building, or fire standards.
11. At the time the 3-day notice to pay rent or quit was served, the amount of rent due was (specify): \$
12. The fair rental value of the premises is (specify): \$ per day.
13. Plaintiff is entitled to immediate possession of the premises.
14. Defendants' continued possession is malicious, and plaintiff is entitled to treble damages. *(State specific facts supporting this claim in attachment 14.)*
15. A written agreement between the parties provides for attorney fees.
16. Defendants' tenancy is subject to the local rent control or eviction control ordinance of *(city or county, title of ordinance, and date of passage)*:

Plaintiff has met all applicable requirements of the ordinances.

17. Other allegations are stated in attachment 17.
18. Plaintiff remits to the jurisdictional limit, if any, of the court.
19. Plaintiff demands that defendant(s) be required to post with this court the amount of *(specify)*: \$ as a pre-trial deposit of prospective rent.

20. PLAINTIFF REQUESTS

- a. possession of the premises.
- b. pretrial rent deposit in the amount of *(specify)*: \$
- c. costs incurred in this proceeding.
- d. past due rent of *(specify)*: \$
- e. damages at the rate of *(specify)*: \$ per day
- f. treble the amount of rent and damages found due.
- g. reasonable attorney fees.
- h. forfeiture of the agreement.
- i. other *(specify)*:

.....
(TYPE OR PRINT NAME)



 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

VERIFICATION

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

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

Date:

.....
(Type or print name)



 (SIGNATURE OF PLAINTIFF)

SHORT TITLE: _____	CASE NUMBER
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k. FACTS SUPPORTING AFFIRMATIVE DEFENSES CHECKED ABOVE (*Identify each item separately.*)

Revoked

Continued on Attachment 2k.

3. OTHER STATEMENTS

- a. Defendant vacated the premises on (*date*):
- b. Defendant claims a credit for deposits of (*specify*): \$
- c. The fair rental value of the premises in item 12 of the complaint is excessive (*explain*):

- d. Other (*specify*):

4. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c. reasonable attorney fees.
- d. Other (*specify*):

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

VERIFICATION

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

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

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT)