

**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. Lee Smalley Edmon, Chair
Case Management Subcommittee
Hon. Frank Roesch, Chair
Anne M. Ronan, Committee Counsel, 415-865-8933
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DATE: August 8, 2008

SUBJECT: Civil Forms: *Summons—Enforcement of State Housing Law* (adopt form SUM-145) (Action Required)

Issue Statement

There is no current civil summons form for enforcement actions under the State Housing Law. That law, in Health and Safety Code section 17990, provides for a 10-day response period to summonses in civil enforcement actions. The new form provides a summons to be used in such actions.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2009, adopt mandatory form *Summons—Enforcement of State Housing Law* (form SUM-145).

The text of the form is attached at page 3.

Rationale for Recommendation

In most civil actions, the responsive pleading must be filed within 30 days after service of summons, which time period is reflected in the general civil *Summons* (form SUM-100). There are a few statutory exceptions to this 30-day time period, for which individualized summons forms have been adopted. A proposal has been made that the Judicial Council adopt a similar individualized summons form for enforcement actions under the State Housing Law (Health & Saf. Code, §§ 17910–17998.3), in which a responsive pleading must be filed within 10 days after service of summons. (Health & Saf. Code § 17990.) The proposed *Summons—Enforcement of State Housing Law* (form SUM-145) would fill this need.

Alternative Actions Considered

The committee considered developing a generic 10-day summons form that could be used both in actions under the State Housing Law and in actions under the California Self-Service Storage Facility Act (Bus. & Prof. Code, §§ 21710–21716), which act also has a 10-day period for responding to a complaint response. The committee concluded that a form so general that it could be used in any situation calling for a ten-day response to a summons might confuse litigants, leading them to believe they had the option of choosing that form, rather than the 30-day summons, in all types of actions. By specifying in the title of the form the type of actions each 10-day summons may be used in, such confusion is less likely to occur.

The new *Summons—Enforcement of State House Law* (form SUM-145) is identical to the existing *Summons—Storage Lien Enforcement* (form SUM-140) except for the title (in English and Spanish) and the statutory reference at the bottom right.

Comments From Interested Parties

The proposed form was circulated for comment as part of the spring 2008 comment cycle. Seven individuals and organizations, including several courts, provided comments, all agreeing with the proposal.¹ The commentator from the Superior Court of San Diego County asked if a generic 10-day summons could be developed. As discussed above, this alternative was considered but rejected by the committee.

Implementation Requirements and Costs

Some minor costs will be incurred in making this form available to the public.

Attachments

¹ A chart summarizing the comments and the committee's responses thereto is set forth at pages 4–5.

**SUMMONS
(CITACION JUDICIAL)**

**ENFORCEMENT OF STATE HOUSING LAW
(CUMPLIMIENTO DE LA LEY DE VIVIENDA ESTATAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

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

DRAFT v. 3
03/17/08

NOT APPROVED BY
JUDICIAL COUNCIL

You have 10 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 10 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), o poniéndose en contacto con la corte o el colegio de abogados locales.

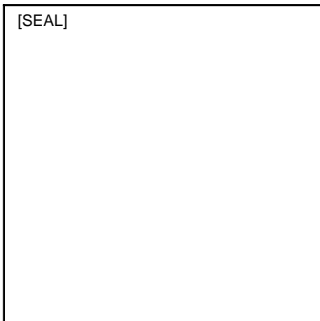
The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER:
(Número del Caso):

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

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

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



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under: <input type="checkbox"/>	CCP 416.10 (corporation)	<input type="checkbox"/>	CCP 416.60 (minor)
<input type="checkbox"/>	CCP 416.20 (defunct corporation)	<input type="checkbox"/>	CCP 416.70 (conservatee)
<input type="checkbox"/>	CCP 416.40 (association or partnership)	<input type="checkbox"/>	CCP 416.90 (authorized person)
<input type="checkbox"/>	other (specify):		
4. by personal delivery on (date):

SPR08-14Civil Form: *Summons—Enforcement of State Housing Law* (adopt form SUM-145)

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	Commentator	Position	Comment	Committee Response
1.	Orange County Bar Association By Cathrine Castaldi, President	A	No specific comments.	Commentator's agreement is noted.
2.	Superior Court of Los Angeles County	A	No specific comments.	Commentator's agreement is noted.
3.	Superior Court of Riverside County By David Gutknecht Supervising Management Analyst	A	As enforcement actions under the State Housing Law provide for a 10-day response period to the summons, adoption of form SUM-145 would be appropriate since the general civil summons form SUM-100 provides for a 30-day time period.	The committee agrees.
4.	Superior Court of San Bernardino County By Debra Meyers Director of Staff Counsel Services and Self-Help Division	A	No specific comments.	Commentator's agreement is noted.
5.	Superior Court of San Diego County By Michael M. Roddy Executive Officer	A	Would it also be possible to develop a generic ten day summons wherein the party could select the case type that applies?	The committee believes that a generic 10-day summons might lead litigants to think they had a choice between a 30-day summons and a 10-day summons.
6.	Superior Court of Ventura County Self-Help Legal Access Center By Tina Rasnow	A	No specific comments.	Commentator's agreement is noted.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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	Commentator	Position	Comment	Committee Response
7.	Derek Tabone Attorney Van Nuys	A	No specific comments.	Commentator's agreement is noted.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.