

Are you being Evicted?

Step 1	<p>Complete the following forms in blue or black ink:</p> <p><input checked="" type="checkbox"/> (UD-105) Answer-Unlawful Detainer</p> <p><input checked="" type="checkbox"/> (POS – 030) Proof of Service by First-Class Mail – Civil (<u>you</u> only fill out <u>top</u> part)</p>
Step 2	<p>Copies of Answer:</p> <p>Make <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 copies, in addition to the original.</p>
Step 3	<p>Service: You must “serve” a copy of the Answer.</p> <p><i>“Service” means that someone, NOT YOU, who is at least 18 years old, must mail a copy of your Answer to the other party in the case or their attorney if they have one. You can ask a friend, relative, etc. to serve the Answer for you or you can look in the yellow pages and hire a “process server” to mail the papers for you for a fee.</i></p> <ul style="list-style-type: none"> • After the papers are mailed, the server (person who mails the Answer) must complete the (POS – 030) Proof of Service by First-Class Mail – Civil.
<p>Step 4</p> <p>There is a filing fee</p> <p><i>unless the fee is waived.</i></p>	<p>File: Turn in the original and copies of the <i>Answer</i> and the <i>Proof of Service</i> to the Clerk’s Office located at:</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="checkbox"/> 191 North First Street San Jose, CA 95113 </div> <div style="text-align: center;"> <input type="checkbox"/> 301 Diana Avenue Morgan Hill, CA 95037 </div> </div> <p style="text-align: center;"><i>Monday-Friday from 8:30am to 4:00pm.</i></p> <p><input type="checkbox"/> If you are not asking for a fee waiver, you will pay the filing fee and get filed-stamped copies back when you file.</p> <p><input type="checkbox"/> If you are asking for a fee waiver, your file-stamped copies may be returned immediately, OR you may be asked to return in up to 24 hours, OR your file-stamped forms may be mailed to you. Please check with the clerk who takes your forms.</p>
Step 5	<p>What happens next:</p> <ul style="list-style-type: none"> • After you file your Answer and Proof of Service, the landlord can ask the court for a trial. To get a trial date the landlord fills out a <i>Request/Counter-Request to Set Case for Trial-Unlawful Detainer</i>. • The trial will be set approximately 20 days after the <i>Request</i> is filed. • If you disagree with the <i>Request</i>, you have 5 days to file and serve your own <i>Request/Counter-Request to Set Case for Trial-Unlawful Detainer</i>.

Please turn over for important information ➔

WHAT IS AN UNLAWFUL DETAINER (“EVICTION”) ACTION?

An Unlawful Detainer action is a court process where a landlord asks the court to order that a tenant move out of the place where they live or work. This usually happens when a tenant doesn't pay the rent or stays after his/her lease has ended. The court will decide if the tenant has to move out of the landlord's property. In these cases, the landlord is the **plaintiff** and the tenant is the **defendant**.

CAN THE LANDLORD MAKE ME MOVE OUT?

The main way landlords can legally force you to move out is if they win an Unlawful Detainer case. Then, they can get a “Judgment” for possession (this is a court order stating you must move out). The Sheriff can enforce this Judgment by making you move out.

CAN THE LANDLORD JUST LOCK ME OUT?

No. It is illegal to try to force you to leave by cutting off your electricity, removing outside windows or doors, changing the locks and/or getting rid of your personal things.

HOW LONG DOES THE PROCESS TAKE?

See the attached flowchart which shows the Unlawful Detainer process. If the tenant files an Answer within 5 days, it will take a minimum of 29 to 33 days before the tenant will be forced to move.

HOW CAN I GET THE FORMS?

There are a few ways that you can get the forms:

- hire an attorney;
- contact a Legal Services Agency such as Legal Aid or Pro Bono Project
- get the forms online at the state's website, (www.courts.ca.gov/selfhelp);
- use a self-help legal book or
- visit the Self-Help Center/Family Law Facilitator's Office in person, Monday through Thursday, starting at 8:30 am. Please go to www.scscourt.org (and click on the self-help section of the site) for details on how to sign up for help at our office. **Please note: we cannot help people who have attorneys.**

Self-Help Center/Family Law Facilitator's Office
Superior Court, County of Santa Clara
99 Notre Dame Avenue, San Jose, CA 95113
(408) 882-2926

www.scscourt.org
Superior Court, County of Santa Clara

www.courts.ca.gov/selfhelp
State of California Courts Self-Help