

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT SPR22-06

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<b>Title</b>	<b>Action Requested</b>
Civil Law: Revision of Unlawful Detainer Summons for Use in Forcible Detainer Cases	Review and submit comments by May 13, 2022
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Revise form SUM-130	January 1, 2023
<b>Proposed by</b>	<b>Contact</b>
Civil and Small Claims Advisory Committee Hon. Tamara Wood, Chair	Sarah Abbott, 415-865-7687 <a href="mailto:sarah.abbott@jud.ca.gov">sarah.abbott@jud.ca.gov</a>

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes revising form SUM-130, *Summons—Unlawful Detainer—Eviction*, to expand use of the mandatory form to expressly include forcible entry and forcible detainer proceedings. The revisions are intended to address confusion by courts and litigants as to whether form SUM-130 may be used in these types of proceedings.

### Background

Currently, form SUM-130 is, by its title, limited to use in unlawful detainer proceedings. However, forcible detainer and forcible entry proceedings, like unlawful detainers, are special proceedings governed by chapter 4 of title 3 (Summary Proceedings) of part 3 (Special Proceedings of a Civil Nature) of the Code of Civil Procedure, beginning at section 1159.<sup>1</sup> The summonses for all three types of proceedings are governed by section 412.20, which applies to all civil summonses, except that defendants in these special proceedings have only five days to respond to the summons.<sup>2</sup>

There is currently no summons form designated for use in forcible detainer or forcible entry proceedings. Courts have reported that some parties have attempted to file individually amended summons forms for use in these cases, causing confusion and inefficiency for court users and

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<sup>1</sup> See Code Civ. Proc., §§ 1159, 1160.

<sup>2</sup> See Code Civ. Proc., § 1167.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

staff. Revising the mandatory form to expressly provide for its use in forcible detainer and forcible entry proceedings would alleviate confusion, provide plaintiffs with an appropriate summons form, and ensure that defendants are provided with the requisite notice.

### **The Proposal**

To expressly expand the scope of form SUM-130 for use in forcible entry and forcible detainer proceedings, the committee proposes that the Judicial Council revise the form title to read *Summons—Eviction (Unlawful Detainer/Forcible Detainer/Forcible Entry)*. The committee does not recommend other revisions to the body of the form as it believes the substance is currently appropriate for use in all three types of proceedings.

### **Alternatives Considered**

The committee considered not recommending any changes to the form, but decided that the proposed revisions would be beneficial so that parties will have a form summons to use in forcible detainer and forcible entry cases. The committee also considered various alternative form titles, but concluded that the title as proposed would provide the most clarity. Finally, the committee considered whether any substantive revisions to the form would be appropriate if its scope is expanded for use in proceedings other than unlawful detainers, but concluded that no substantive revisions are needed.

### **Fiscal and Operational Impacts**

The impact to the courts may include costs to copy the revised form and update any forms packets for unlawful detainer forms. It also may require staff time to educate court professionals about the expanded use of the form.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments**

1. Form SUM-130, at pages 4–5

**SUMMONS—EVICTION**  
**(CITACIÓN JUDICIAL—DESALOJO)**

**UNLAWFUL DETAINER / FORCIBLE DETAINER / FORCIBLE ENTRY**  
**(RETENCIÓN ILÍCITA DE UN INMUEBLE / RETENCIÓN FORZOSA / ENTRADA FORZOSA)**

**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

03/15/2022

Not Approved by  
 the Judicial Council

<p>NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 5 days. You have 5 DAYS, not counting Saturdays and Sundays and other judicial holidays, 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.</p> <p>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 (<a href="http://www.courts.ca.gov/selfhelp">www.courts.ca.gov/selfhelp</a>), your county law library, or the courthouse nearest you. 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.</p> <p>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 website (<a href="http://www.lawhelpca.org">www.lawhelpca.org</a>), the California Courts Online Self-Help Center (<a href="http://www.courts.ca.gov/selfhelp">www.courts.ca.gov/selfhelp</a>), or by contacting your local court or county bar association.</p>	<p><i>¡AVISO! Usted ha sido demandado. Si no responde dentro de 5 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 5 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante.</i></p> <p><i>Una carta o una llamada telefónica no lo protege. 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 (<a href="http://www.sucorte.ca.gov">www.sucorte.ca.gov</a>), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por falta de comparecencia y se le podrá quitar su sueldo, dinero y bienes sin más advertencia.</i></p> <p><i>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, (<a href="http://www.lawhelpcalifornia.org">www.lawhelpcalifornia.org</a>), en el Centro de Ayuda de las Cortes de California, (<a href="http://www.sucorte.ca.gov">www.sucorte.ca.gov</a>) o poniéndose en contacto con la corte o el colegio de abogados local.</i></p>
<p><b>FEE WAIVER:</b> If you cannot pay the filing fee, ask the clerk for a fee waiver form. <b>NOTE:</b> The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.</p>	<p><b>EXENCIÓN DE CUOTAS:</b> 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. <b>AVISO:</b> Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos con un gravamen sobre cualquier cantidad de \$10,000 ó más recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.</p>

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

CASE NUMBER (número de caso):

2. 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):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

3. (Must be answered in all cases) An **unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415)**  did not  did for compensation give advice or assistance with this form. (If plaintiff has received **any** help or advice for pay from an unlawful detainer assistant, complete item 4 below.)

4. **Unlawful detainer assistant** (complete if plaintiff has received any help or advice for pay from an unlawful detainer assistant):

- a. Assistant's name:
- b. Telephone no.:
- c. Street address, city, and zip:
  
- d. County of registration:
- e. Registration no.:
- f. Registration expires on (date) :

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 (form POS-010).)

[SEAL]

5. **NOTICE TO THE PERSON SERVED:** You are served
- a.  as an individual defendant.
  - b.  as the person sued under the fictitious name of (specify):
  - c.  as an occupant.
  - d.  on behalf of (specify):  
 under:  CCP 416.10 (corporation).  CCP 416.60 (minor).  
 CCP 416.20 (defunct corporation).  CCP 416.70 (conservatee).  
 CCP 416.40 (association or partnership).  CCP 416.90 (authorized person).  
 CCP 415.46 (occupant).  other (specify):
  - e.  by personal delivery on (date):