

UD ANSWER

SAMPLE

Use the samples to help you complete
the packet of blank forms.

DEFINITIONS OF AFFIRMATIVE DEFENSES FOR UNLAWFUL DETAINER ANSWER

3a. You did not pay your rent because there were serious problems with the home that the landlord would not fix.

Example: No heat, windows are broken, the sinks don't work or the ceiling leaks.

3b. You did not pay your rent because you used it to fix problems with the home that the landlord would not fix.

Example: The heater was broken, you told the landlord, but he wouldn't fix it, so you paid to have a licensed contractor fix it.

3c. You tried to pay the full amount of rent you owed within the 3 days, but the landlord would not take it.

3d. After the landlord gave you a 3-day notice, he then accepted some rent during the 3 days, or he told you that you did not have to move.

3e. Your landlord is retaliating against you.

Examples: You called Code Enforcement about violations or you invited a tenants' rights attorney to speak to you and your neighbors.

3f. Your landlord is evicting you because of your race, religion, sexual preference, where you work, or because you have children.

3g. In counties that have eviction ordinances, a landlord can only evict you for a good reason. At this time, Santa Clara County does not require the landlord to have a good reason to give you a 30-, 60-, 90-day notice.

3h. The landlord accepted rent that would cover more than the number of days in the notice.

Example: The landlord gave you a 30 day notice on May 1st to have you leave by May 31st. Your rent is \$500. On May 2nd, you paid \$1000 for May and June, and the Landlord kept it.

3i. Any other reason that you think that you should not be evicted.

3j. On page 2 of your answer, give detailed facts that support the boxes you checked at 3a-3i.

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: YOUR NAME STATE BAR NO.: FIRM NAME: ADDRESS: YOUR STREET ADDRESS CITY: CITY STATE: CA ZIP CODE: ZIP CODE E-MAIL ADDRESS (Optional): TELEPHONE NO. YOUR PHONE # ATTORNEY FOR (Name) Self-Represented FAX NO. (Optional):</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: MAILING ADDRESS: STAFF WILL STAMP ADDRESS HERE CITY AND ZIP CODE: BRANCH NAME:</p>	
<p>PLAINTIFF: LANDLORD'S NAME DEFENDANT: YOUR NAME</p>	
<p>ANSWER—UNLAWFUL DETAINER</p>	
<p>CASE NO. YOUR CASE #</p>	

1. Defendant (each defendant for whom this answer is filed must be named and must sign this answer unless his or her attorney signs): **YOUR NAME**

answers the complaint as follows:

2. **Check ONLY ONE of the next two boxes:**

a. Defendant generally denies each statement of the complaint. (Do not check this box if the complaint demands more than \$1,000.)

b. Defendant admits that all of the statements of the complaint are true EXCEPT:

(1) Defendant claims the following statements of the complaint are false (state paragraph numbers from the complaint):

If you think some parts of the complaint (paperwork you were served with) are true and some are false, check box "b." and then list the paragraph #s of the complaint that you know are incorrect.

(2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (state paragraph numbers from the complaint or explain below or on form MC-025):

If you are not sure whether some things said in the complaint are true or not, check box "b." and list items by paragraph # here.

3. **AFFIRMATIVE DEFENSES** (NOTE: For each box checked, you must state brief facts to support it in item 3k (top of page 2).)

a. (nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.

b. (nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.

c. (nonpayment of rent only) On (date): before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.

d. Plaintiff waived, changed, or canceled the notice to quit.

e. Read through these statements and check the box(es) that apply.

f. On "3." of the next page, give the reasons why you checked them. g against the

g. Plaintiff's demand for possession violates the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):

(Also, briefly state in item 3k the facts showing violation of the ordinance.)

h. Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.

i. Plaintiff seeks to evict defendant based on acts against defendant or a member of defendant's household that constitute domestic violence, sexual assault, or stalking. (A temporary restraining order, protective order, or police report not more than 180 days old is required naming you or your household member as the protected party or a victim of these crimes.)

j. Other affirmative defenses are stated in item 3k.

CASE NUMBER: **YOUR CASE #**

3. AFFIRMATIVE DEFENSES (cont'd)

k. Facts supporting affirmative defenses checked above (identify facts for each item by its letter from page 1 below or on form MC-025):

Description of facts is on MC-025, titled as Attachment 3k.

4. OTHER STATEMENTS

a. Defendant's

Check this box if you are no longer living at the house or apartment, and put the date when you surrendered it back to the landlord.

b. The fair rental value of the premises awarded to the defendant is excessive (explain below or on form MC-025)

Check this box if you think that the rent is too high because of serious problems with the home or because it is overvalued for other reasons.

c. Other (state)

Explain your answer here. If you need more space, mark the box, and ask staff for an attachment.

5. DEFENDANT REQUESTS

a. that plaintiff take nothing requested in the complaint.

b. costs incurred in this proceeding.

Check box "d." if you want the Judge to order the landlord to make the needed repairs. Only mark this box if you

c. reasonable attorney fees.

Give facts with dates that support the box(es) that you checked in "3.a. -j." on page 1. If you need more space, mark the box, and ask staff for an attachment. Attach any supporting documents that you have, and label them as "Exhibits", starting with "Exhibit 1".

6. Number of pages attached: _____

count them and put the # here.

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code §§ 6400—6415)

7. (Must be completed in all cases.) An unlawful detainer assistant did not did for compensation give advice or assistance with this form. (If defendant has received any help or advice for pay from an unlawful detainer assistant, state:

a. Assistant's name:

b. Telephone No.:

c. Street address, city, and zip code:

d. County of registration:

e. Registration No.:

f. Expires on (date):

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.)

PRINT YOUR NAME

(TYPE OR PRINT NAME)

SIGN YOUR NAME

(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 answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date: **TODAY'S DATE**

PRINT YOUR NAME

(TYPE OR PRINT NAME)

SIGN YOUR NAME HERE

(SIGNATURE OF DEFENDANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): YOUR NAME (AND SPOUSE) YOUR STREET ADDRESS YOUR CITY, STATE, ZIP CODE TELEPHONE NO.: YOUR PHONE# FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): IN PRO PER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: CHECK WITH STAFF MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: CIVIL DIVISION	
PETITIONER/PLAINTIFF: LANDLORD'S NAME RESPONDENT/DEFENDANT: YOUR NAME	
PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL	CASE NUMBER: YOUR CASE NUMBER

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
THE SERVER'S ADDRESS (NOT YOUR ADDRESS)
3. On (date): **DATE SERVER MAILED ANSWER** I mailed from (city and state): **CITY/STATE ANSWER WAS MAILED FROM** the following documents (specify):

ANSWER-UNLAWFUL DETAINER

The documents are listed in the *Attachment to Proof of Service by First-Class Mail - Civil (Documents Served)* (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and (check one):
 - a. **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. **placing** the envelope for collection and mailing 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.

5. The envelope was addressed and mailed as follows:
 - a. **Name** of person served: **LANDLORD'S NAME**
 - b. **Address** of person served:

LANDLORD'S ADDRESS OR LANDLORD'S ATTORNEY'S NAME & ADDRESS, IF THEY HAVE ONE

The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail-Civil (Persons Served)* (POS-030(P)).

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

Date: **DATE SERVER SIGNS**

SERVER PRINTS NAME _____
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

SERVER SIGNS NAME _____
(SIGNATURE OF PERSON COMPLETING THIS FORM)

INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

NOTE: This form should **not** be used for proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Use these instructions to complete the *Proof of Service by First-Class Mail - Civil* (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents: (1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service - Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at www.courtinfo.ca.gov/forms.

Complete the top section of the proof of service form as follows:

First box, left side : In this box print the name, address, and telephone number of the person *for* whom you served the documents.

Second box, left side : Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side : Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Complete items 1-5 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Documents Served)*(form POS-030(D)), and attach it to form POS-030.
4. For item 4:
Check box a if you personally put the documents in the regular U.S. mail.
Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Persons Served)*(form POS-030(P)), and attach it to form POS-030.

At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.