

Do You Need to Evict a Tenant?

Step 1	<p>Complete the following forms in blue or black ink:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Civil Case Coversheet (CM-010) <input checked="" type="checkbox"/> Summons (SUM-130) <input checked="" type="checkbox"/> Complaint-Unlawful Detainer (UD-100) <input checked="" type="checkbox"/> Proof of Service of Summons (POS-010) <input checked="" type="checkbox"/> Attach a copy of the lease and the 3-day, 30-day, 60-day, or 90-day notice
Step 2	<p>Copies: Make 1 copy for you and 1 copy for each tenant <i>in addition to</i> the original.</p>
<p>Step 3</p> <p>There is a filing fee unless the fee is waived.</p>	<p>File: Turn in the original and copies to the Clerk’s office located at:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <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> <ul style="list-style-type: none"> ● If you are not asking for a fee waiver, you will pay the filing fee and get filed-stamped copies back when you file. ● If you are asking for a fee waiver, your file-stamped copies may be returned immediately, OR you may be asked to return in 24 hours, OR your file-stamped forms may be mailed to you.
Step 4	<p>Service: After the filed copies are returned to you</p> <ul style="list-style-type: none"> ● 1 filed copy-keep for your records ● 1 filed copy- serve (deliver) on each adult tenant <p><i>“Service” means that someone other than you who is at least 18 years old must hand-deliver a copy of your forms to the other party in the case. You can ask a friend, relative, etc. to serve (deliver) the papers for you or you can look in the yellow pages and hire a “process server” to deliver the papers for you for a fee.</i></p> <ul style="list-style-type: none"> ● After papers are delivered, the server (person who handed the tenant(s) the papers) must complete the POS-010 Proof of Service of Summons form. ● File the Proof of Service of Summons form with the Clerk’s Office.
Step 5	<p>What happens next:</p> <ul style="list-style-type: none"> ● After you properly serve the paperwork the tenant(s) has/have 5 calendar days after service to file an <i>Answer</i> with the court clerk. Day 1 starts the day <u>after</u> the tenant is handed the forms. <p><i>If the fifth day falls on a Saturday or Sunday, the tenant has until end of the work day Monday to file an Answer. If the fifth day is a court holiday, the tenant has until the end of the next court day to file an Answer.</i></p> <ul style="list-style-type: none"> ▪ If the tenant does NOT file an Answer on time, you need to file forms to enter the tenant(s)’s default and get a judgment in your favor. ▪ If the tenant DOES file an Answer you need to file a <i>Request/Counter-Request to Set Case for Trial</i> (UD-150) so you have a trial and the judge decides. ▪ A private attorney or the Self-Help Center can help you with the next step.

Please turn over for important information →

WHAT IS AN UNLAWFUL DETAINER ACTION?

An Unlawful Detainer (“UD”) action is a special court proceeding where a landlord asks the court to order someone to move out of a property (“evict” them). This usually happens when a tenant stops paying the rent or stays after they have been given notice by the landlord to move out. 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**.

HOW CAN I MAKE THE TENANT MOVE OUT?

The only way you can legally force your tenant to move out is to win your UD case. Then you can get a “Judgment” for possession (this means the court makes an order that the tenant has to move out and return the property to you). The Sheriff can enforce this Judgment by making the tenant move out. It is illegal to force your tenant to leave by cutting off their electricity, changing the locks and/or getting rid of the tenant’s personal property.

HOW CAN I START AN UNLAWFUL DETAINER ACTION?

You must first give the Tenant(s) written “Notice” that they need to move out. This is either a 3-day, 30-day, 60-day, or 90-day notice. Different notices are for different purposes. Notices have mandatory words they need to say so refer to an attorney for a form that will work for you. Notices are not court forms so you will not find them on the State’s self-help website. If the tenant does not move out at the end of the notice time period, you can file a UD action with the court.

WHAT ELSE SHOULD I KNOW?

- UD cases have very strict requirements for the landlord. If you do even a small thing wrong, you may lose your case and have to start over completely. This can make your case take several months to finish. During that time you are losing rent you may never be able to collect. Consider hiring an attorney who is experienced with the UD procedure so that your case is completed as quickly as possible and you can start receiving rent from a new tenant.
- Watch UD court hearings to learn how to represent yourself in court if your tenant(s) files an Answer. **UD hearings are W, Th and F mornings from 9 am to 12 noon in department 3 in the courthouse at 191 N. First St.** Anyone can watch.
- If you have an unusual case, for example you have people living in the property whose names you don’t know or you created your own notice or you want to give the tenant(s) more than one type of notice, please see a private attorney or visit the law library to research how to handle your case. The Self-Help Center will not be able to help.

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

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State of California Courts Self-Help