



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
SELF-HELP CENTER**

**[www.occourts.org](http://www.occourts.org)**

**ANSWERING AN UNLAWFUL DETAINER COMPLAINT**

**All documents must be typed or printed neatly.**

**Please use black ink.**

**Self-Help Center Locations:**

Lamoreaux Justice Center

1<sup>st</sup> Floor

341 The City Drive

Orange, CA



Central Justice Center

Room G-100

700 Civic Center Drive

Santa Ana, CA



Superior Court

Service Center

27573 Puerta Real

Mission Viejo, CA

Harbor Justice Center

Room 150

4601 Jamboree Rd

Newport Beach, CA

North Justice Center

Room 360

1275 N. Berkeley Ave.

Fullerton, CA



## AFTER THE COURT'S DECISION

If the Court decides in favor of the tenant, the tenant will not have to move, and the landlord may be ordered to pay the tenant's court costs (for example, filing fees) and the tenant's attorney fees. However, the tenant will have to pay any rent that the Court orders.

If the landlord wins, the tenant will have to move. In addition, the Court may order the tenant to pay the landlord's court costs and attorney fees, and any proven damages, such as overdue rent or the cost of repairs if damage was done to the premises.

## WRIT OF POSSESSION

If a judgment is entered against you and you do not move out, the Court will issue a Writ of Possession to the landlord. The landlord can deliver this legal document to the Sheriff, who will then forcibly evict you from the rental unit if you don't leave promptly.

Before evicting you, the Sheriff will serve you with a copy of the Writ of Possession. The Writ of Possession instructs you that you must move out within five days after the writ is served on you, and that if you do not move out, the Sheriff will remove you from the rental unit and place the landlord in possession of it. The cost of serving the Writ of Possession will be added to the other costs of the suit that the landlord will collect from you.

## FORMS

The following forms are available on the Court's Web-site at: [www.occourts.org](http://www.occourts.org) or at the Court Clerk's Office.

UD-105	Answer – Unlawful Detainer
POS-030	Proof of Service by First Class Mail
L-80	Fee Waiver Booklet
UD-150	Request/Counter Request to Set Case for Trial-Unlawful Detainer.

## INTERPRETERS

The court does not furnish interpreters for Civil matters. Parties must provide their own interpreter if one is needed in court.

## QUESTIONS

If you have any legal questions, you must contact an attorney or do your own research. The Orange County Law Library is available to the public.

If you have a question regarding the status of your case, you may look online at [www.occourts.org](http://www.occourts.org) or contact the Justice Center where the case is filed. Have your case number with you.

All documents must be completed properly and accurately. Any documents needing correction will be returned. You are responsible for providing copies. A self-addressed stamped envelope is required for the return of your documents.

If you are representing yourself in an Unlawful Detainer action, you are exempt from the mandatory electronic filing rules (Code of Civil Procedure §1010.6, Orange County Superior Court Rule 352). If you prefer, you may electronically file your forms at [www.occourts.org](http://www.occourts.org) or you may file in person at the address listed on the Summons and Complaint.

## COURT FEES

*Make checks payable to Clerk of the Court.*  
Pursuant to the Government Code, the Superior Court must charge for the various documents filed and issued. A current fee schedule is available at the Clerk's Office or at [www.occourts.org](http://www.occourts.org).

## OTHER INFORMATION

ORANGE COUNTY PUBLIC LAW LIBRARY (714)834-3397  
515 N. Flower, Santa Ana  
Building 32 (in the Civic Center Plaza)  
[WWW.OCPLL.ORG](http://WWW.OCPLL.ORG)

FAIR HOUSING (800) 698-FAIR or (714)569-0823  
The Fair Housing Council is available to answer landlord-tenant questions, investigate discrimination allegations, and they have a counselor available.

ORANGE COUNTY BAR LAWYER REFERRAL AND INFORMATION (949)440-6747

O.C. APARTMENT ASSOCIATION (714) 638-5550

LEGAL AID SOCIETY OF ORANGE COUNTY (714)571-5200  
[www.legal-aid.com](http://www.legal-aid.com) (800)834-5001  
Legal Aid is available to answer landlord-tenant questions through its Hotline, provide community education at the weekly Landlord-Tenant Clinic, assist in preparation of pleadings, and provide representation in certain cases to senior citizens and very low income tenants.



*This pamphlet is for general information only and is not a substitute for legal advice.*

*Special thanks to the Legal Aid Society of Orange County for their assistance in the development of this pamphlet.*

Form No. L1196 – Rev. Dec. 2016

# Defending an Unlawful Detainer Lawsuit

DAVID H. YAMASAKI  
CLERK OF THE COURT



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE

**Central Justice Center**  
700 Civic Center Drive West  
Santa Ana, Ca 92701 (657)  
622-6878

**Harbor Justice Center  
Newport Beach Facility**  
4601 Jamboree Rd.  
Newport Beach, CA 92660  
(657) 622-5400

**North Justice Center**  
1275 N. Berkeley Ave.  
Fullerton, CA 92832  
(657) 622-5600

This information is intended as a procedural guide only.  
You may wish to seek an attorney's advice.

### TIME TO RESPOND TO AN UNLAWFUL DETAINER LAWSUIT

An unlawful detainer lawsuit is a "summary" court procedure. This means that the court action moves forward very quickly, and that the time given the tenant to respond to the lawsuit is very short. ***In most cases, the tenant has only five days, including weekends, to file a written response to the lawsuit after being served with a copy of the Unlawful Detainer complaint.*** If the fifth day to answer falls on a weekend or holiday, you can file your answer on the following Monday or non-holiday.

### HOW TO RESPOND TO AN UNLAWFUL DETAINER LAWSUIT

Typically, a tenant responds to a landlord's complaint by filing a legal document called an Answer. If you are representing yourself in an Unlawful Detainer action you are exempt from the mandatory electronic filing rules (Code of Civil Procedure § 10106, Orange County Superior Court Rule 352). You may file your response at the address listed on the Summons and Complaint. If you prefer, you may electronically file your response. Filing information and service providers can be found at [www.occourts.org](http://www.occourts.org). You must also mail a copy of your answer to the plaintiff's attorney or if no attorney, to the plaintiff. Proof of Mailing must be filed at the same time as the answer. Once the answer has been filed either party may request the case be set for trial by filing a "Request/Counter-Request to Set Case for Trial – Unlawful Detainer".

### LEGAL DEFENSES

You may have a legal defense to the landlord's complaint. If so, you must state the defense in your answer within the five-day period, or you will lose any defenses that you may have. Some typical defenses a tenant might have are:

- The landlord's three-day notice requested more rent than was actually due.
- The landlord did not maintain the property in condition fit to live (i.e. the landlord breached the implied warranty of habitability).

- The landlord filed the eviction action against the tenant for complaining about the condition of the rental unit or for exercising a right the tenant has under the law.
- The landlord filed the eviction for an unlawful discriminatory practice.

### RETALIATORY ACTIONS AND EVICTIONS

A landlord may try to evict a tenant because the tenant has complained about a problem in the rental unit or exercised a legal right. The landlord cannot retaliate against you because you called the Health Department or any other government agency about the condition of your home; you exercised your rights to repair problems and deducted the cost from your rent, you organized with other tenants or formed an tenants' association or you did anything else you had a constitutional right to do such as complaining to your landlord about the condition of the rental unit.

### BREACH OF THE WARRANTY OF HABITABILITY

Under the law, the tenant does not have to pay full rent if: there are serious problems that affect a tenant's health and safety; the landlord knew about the problems; had time to fix them, but refused or failed to do so; and the tenant(s) did not cause the problem or refuse to allow repairs.

The law does not require the landlord to keep your rental unit in perfect condition, but the landlord must provide these basic services: plumbing that works, hot and cold running water and enough hot water to wash and bathe, heat, electricity and lights which work and are safe, window screens, sufficient extermination to keep out roaches, fleas, bugs and mice or rats, clean common areas free from trash and debris, safe and secure stairways and railings, roofs, walls and windows that do not leak and are not broken, and adequate security.

### DISCRIMINATION

By trying to evict you, the landlord may be unlawfully discriminating against you or your family. The law provides that the landlord may not discriminate against you or try to evict you simply because of your race or ethnic group, your religion, national origin or ancestry, your sex, your marital

status, your physical or mental handicap, or your sexual orientation.

### ADDITIONAL LEGAL RESPONSES

Depending on the facts of your case, there are other legal responses to the landlord's complaint that you might file instead of an answer. For example:

- If you believe that your landlord did not properly serve the summons and the complaint, you might file a Motion to Quash Service of Summons.
- If you believe that the complaint has some technical defect or does not properly allege the landlord's right to evict you, you might file a Demurrer.

***Note: No forms are available for these types of responses. It is important that you obtain advice from a lawyer before you attempt to use these types of responses.***

### APPEARING IN COURT

Before appearing in court, you must carefully prepare your case. Among other things you should:

- Talk with a housing clinic; tenant organization; attorney; or legal aid organization. This will help you understand the legal issue in your case and the evidence you will need.
- Decide how you will present the facts that support your side of the case, e.g., witnesses, letters, other documents, photographs, video, or other evidence.
- Have at least four copies of all documents that you intend to use as evidence: an original for the judge, a copy for the opposing party, a copy for yourself, and copies for your witnesses.
- Ask witnesses to testify at trial if they will help your case. You can subpoena a witness who will not testify voluntarily. A subpoena is an order from the court for a witness to appear. The subpoena must be served (handed) to the witness, and can be served by anyone who is over the age of 18. You can obtain a subpoena form from the Clerk's Office. You must pay witness fees at the time the subpoena is served on the witness, if the witness requests them.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):   TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff: Defendant:	
<b>ANSWER—UNLAWFUL DETAINER</b>	CASE NUMBER: _____

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

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 or explain below or on form MC-025*:  Explanation is on MC-025, titled as Attachment 2b(1).
- (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*):  
 Explanation is on MC-025, titled as Attachment 2b(2).

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.  Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.
- f.  By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or the laws of the United States or California.
- 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, stalking, human trafficking, or abuse of an elder or a dependent adult. (*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: \_\_\_\_\_

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 vacated the premises on (date):

b.  The fair rental value of the premises alleged in the complaint is excessive (explain below or on form MC-025):

Explanation is on MC-025, titled as Attachment 4b.

c.  Other (specify below or on form MC-025 in attachment):

Other statements are on MC-025, titled as Attachment 4c.

5. DEFENDANT REQUESTS

a. that plaintiff take nothing requested in the complaint.

b. costs incurred in this proceeding.

c.  reasonable attorney fees.

d.  that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.

e.  Other (specify below or on form MC-025):

All other requests are stated on MC-025, titled as Attachment 5e.

6. Number of pages attached: \_\_\_\_\_

**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.)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT 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:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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**Attachment 3.k.a. to UD-105 Answer-Unlawful Detainer**

3. Affirmative Defenses

a. Landlord has substantially breached the warranty to provide habitable premises (*For each box checked, you must state brief facts to support the issues*):

Waterproofing & Weather Protection Issues (*specify*):

Gas & Plumbing Issues (*specify*):

Water Supply Issues (*specify*):

Heating Issues (*specify*):

Electricity Issues (*specify*):

Clean & Sanitary Premises (*specify*):

Trash Facilities Issues (*specify*):

Floors, Stairways, & Railings Issues (*specify*):

Lead Hazard Issues (*specify*):

Security Device Issues (*specify*):

Other (*specify*):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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**Attachment 3.k.b. to UD-105 Answer-Unlawful Detainer**

3. Affirmative Defenses (*Continued*)

- b. Defendant made needed repairs and properly deducted the cost from the rent, and Plaintiff did not give proper credit.

There were dilapidations rendering the premises untenable. Defendant took the following actions:

Defendant gave the landlord notice on (*specify date*) \_\_\_\_\_ about the problems by doing the following (*specify*):

Defendant told the landlord that the following needed to be fixed (*specify*):

The landlord's response to the above actions was (*specify*):

On (*specify date*) \_\_\_\_\_ Defendant took the following actions (*specify*):

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>      TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<b>PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</b>	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:
3. On *(date):* \_\_\_\_\_ I mailed from *(city and state):* \_\_\_\_\_ the following **documents** *(specify):*

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:
  - b. **Address** of person served:

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:

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)		(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](http://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.**