

INFORMATION FOR LANDLORD

Unlawful detainer actions are “summary proceedings”. That means complex issues of title will not be litigated. From the Landlord’s perspective, the key issues are the landlord’s right to regain possession of the property and the landlord’s right to past due rent (but only in evictions for past due rent). From the Tenant’s perspective, the key issues can involve a variety of defenses, including but not limited to habitability, retaliation, discrimination, and/or notice issues, depending on the facts. An Unlawful Detainer action cannot resolve disputes over damage to the property or security deposits.

Defendant (tenant) does not respond after service

If the defendant fails to respond to your complaint after having been served, and if the defendant is still in possession of the property, you will need to proceed with the filing of a Request to Enter Default (CIV-100), Judgment (UD110) and Writ of Possession (EJ-130). If you have not completed these forms before, there is a clinic every Tuesday and Friday at the Law Library, 550 Main Street, Placerville, where a paralegal is available to assist you in completing these forms correctly.

If the Defendant (tenant) has moved out before you can obtain a default judgment or schedule a court trial, then you have other options you may select in order to pursue any monies owing to you by the defendant. Once the tenant has vacated the property, the Court loses jurisdiction over the defendant in an unlawful detainer case. You will have to either amend the unlawful detainer complaint to a regular civil action or you will need to dismiss the case and pursue the defendant through small claims if you wish to collect any monies owing to you. (Dismissal – CIV-110)

Defendant files an answer

If the Defendant(s) files an answer to your unlawful detainer complaint, you will need to file a request to set your case for trial. (Form UD-150) The trial will be set within approximately 21 days.

Before Your Court Date

- Read your court papers. Understand what each form asks and how the other side has responded.
- Observe hearings ahead of time, if you can, in front of the same judge or for the same type of case as yours. Watch lawyers and how they act in the courtroom, how they speak to the judge, how they ask questions, etc.
- Prepare all your evidence.

Prepare Your Evidence

One of the most important steps you can take when preparing to go to court is preparing your “evidence.” Evidence is information (oral or written) that a party intends to present in court to prove his or her case.

Evidence can be in 2 main forms:

1. Witness testimony (people):

- The party involved in the lawsuit;

- Other people who have direct and relevant information about the case;
- People who keep relevant records;
- In certain cases experts qualified to give an opinion about some aspect of the case. (Experts are not common.)

Usually, any witnesses must be present in court for the hearing or trial.

2. Exhibits (things):

- Documents or objects used to prove your case (or disprove the other side's) including the rental agreement, 3, 30 or 60 day notice and proof of service of the notice; (Even though copies of these documents may be attached to your complaint – they are not evidence. You must bring copies to the court to present as evidence.)
- Photographs, letters, records, etc.
- When you arrive at court and check-in with the courtroom clerk, provide the clerk with a copy of your rental agreement (if there is one) to be marked as Exhibit 1, a copy of the 3, 30 or 60 day notice which will be marked as Exhibit 2, and a copy of the proof of service of the 3, 30 or 60 day notice which will be marked as Exhibit 3. Any other documents you intend to use to support your case will be marked at that time in order. (Time permitting.) **YOU MUST HAVE AT LEAST 3 COPIES OF ALL EXHIBITS** – one will be submitted to the court, another is for your reference and the third copy is to be given to the defendant (tenant) before the case is called so they have a chance to review the exhibits.

To prepare your evidence:

- Review all your evidence and organize it so that, even when you get nervous and rushed, you can find what you are looking for.
- Make sure your witnesses are ready.
- Outline questions to ask your witnesses.
- Outline questions to ask the other side's witnesses.

Photographs must be printed if you intend to submit them to the court. The court will not review media from your phone or laptop. Similarly, if you intend to submit an audio recording, please present it on a CD or DVD (no flash drives) along with a printed transcript of the recording.

INFORMATION REQUIRED FROM LANDLORD AT TIME OF TRIAL

1. Inform the court whether you are the owner (or property manager) of the property.
2. Advise the court of the property's address (street number and city).
3. Be prepared to give the Court a copy of your rental agreement (if there is one.) The agreement should be pre-marked as Exhibit 1. Request that it be admitted into evidence.
4. Be prepared to give the Court a copy of the 3-day, 30-day or 60-day notice. The notice should be pre-marked as Exhibit 2. Request that it be admitted into evidence.
5. Be prepared to give the Court a copy of the proof of service of the 3, 30 or 60 day notice. The proof of service should be pre-marked as Exhibit 3. Request that the proof of service be admitted into evidence.

6. If there are any photos, letters, inspection reports or other documents you wish the court to review, you must have them pre-marked as an exhibit (the next in order.) Request that they be admitted into evidence.
7. State whether the tenant(s) is/are still in possession (i.e. occupying) the premises.
8. If you are seeking recovery of past due rent, then state the amount of the unpaid rent and the period it covers, (i.e. month, day and year.)
9. If you are seeking holdover damages state the amount and explain how you arrived at that amount. (“Holdover damages” are the unpaid amount of rent that has accrued since giving the notice (3, 30 or 60 day notice) to the date of the trial, i.e. daily rent of \$_____ for _____ number of days for a total of \$_____). If you do not ask for holdover rent, the claim will be waived.
10. State the amount of costs you have incurred. Typical costs include the fees for filing and serving the complaint. If you do not ask for costs they will be considered waived.

INFORMATION FOR THE TENANT

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You cannot file a cross complaint in Unlawful Detainer actions. If you believe you have a monetary claim against the Landlord, you must file a separate action.

Before Your Court Date

- Read your court papers. Understand what each form asks and note how you responded to each item raised in the complaint.
- Make a list of your reasons for each allegation in the complaint and organize any exhibits you may have to follow along with your responses.
- Observe hearings ahead of time, if you can, in front of the same judge or for the same type of case as yours. Watch lawyers and how they act in the courtroom, how they speak to the judge, how they ask questions, etc.
- Prepare all your evidence.

Prepare Your Evidence

One of the most important steps you can take when preparing to go to court is preparing your “evidence.” Evidence is information (oral or written) a party can present in court to prove their case.

Evidence can be in 2 main forms:

1. Witness testimony (people):

- The party involved in the lawsuit;
- Other people who have direct and relevant information about the case;
- People who keep relevant records; or
- In certain cases experts qualified to give an opinion about some aspect of the case.
This is not common.

Usually, any witnesses must be present in court for the hearing or trial.

2. Exhibits (things):

- Documents or objects used to prove your case (or disprove the other side’s);
- Photographs, letters, records, etc.
- When you arrive at court and check-in with the courtroom clerk, provide the clerk with a copy of your exhibits. Any photographs or documents you intend to use to support your case will be marked at that time in order. (Time permitting.) **YOU MUST HAVE AT LEAST 3 COPIES OF ALL EXHIBITS** – one will be submitted to the court, another is for your reference and the third copy is to be given to the plaintiff (landlord) before the case is called so they have a chance to review the exhibits.

To prepare your evidence:

- Review all your evidence and organize it so that, even when you get nervous and rushed, you can find what you are looking for.
- Make sure your witnesses are ready.
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