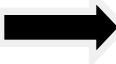



Are you being Evicted?

<input type="checkbox"/> Step 1 Fill out forms	Use blue or black ink: <input checked="" type="checkbox"/> UD-105 Answer-Unlawful Detainer <input checked="" type="checkbox"/> POS-030 Proof of Service by First-Class Mail – Civil (you only fill out top part)
<input type="checkbox"/> Step 2 Make copies	Make copies of the UD-105 Answer: Make <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 copies, in addition to the original.
<input type="checkbox"/> Step 3 Serve Copies 	You must “serve” a copy of the Answer. <p>“Service” means that someone, NOT YOU, who is at least 18 years old, must mail a copy of your <i>Answer</i> to the other party in the case or their attorney if they have one.</p> <p>You can ask a friend, relative, etc. to serve the <i>Answer</i> or you can look in the yellow pages and hire a “process server” to mail the papers for you for a fee.</p> <p>After the papers are mailed, the server (person who mails the <i>Answer</i>) must complete the POS – 030 Proof of Service by First-Class Mail – Civil and give it to back to you.</p>
<input type="checkbox"/> Step 4 File original & copies There is a filing fee <i>unless the fee is waived.</i>	Turn in the original and copies of the Answer and the Proof of Service to the Clerk’s Office located at: <p style="text-align: center;">191 North First Street, San Jose, CA 95113</p> <p>The Clerk’s Office opens at 8:30am Monday-Friday, closing times are subject to change, visit www.sccscourt.org or call 408-882-2100 for current office hours.</p> <p>Dropbox: If the Clerk’s Office is closed, you may use the dropbox until 5:00 pm Monday through Friday. A check or fee waiver must be submitted with the documents. Documents must be placed in the dropbox by 4pm to be filed the same day.</p> <p><input type="checkbox"/> If you are not asking for a fee waiver, you will pay the filing fee and get filed-stamped copies back when you file.</p> <p><input type="checkbox"/> If you are asking for a fee waiver, your file-stamped copies may be returned immediately, OR you may be asked to return in up to 24 hours, OR your file-stamped forms may be mailed to you. Please check with the clerk who takes your forms.</p>
<input type="checkbox"/> Step 5 What happens next... 	After you file your <i>Answer</i> and <i>Proof of Service</i> : <p>The landlord can ask the court for a trial. To get a trial date the landlord fills out a <i>Request/Counter-Request to Set Case for Trial-Unlawful Detainer</i>.</p> <p>The trial will be set approximately 20 days after the <i>Request</i> is filed.</p> <p>If you disagree with the <i>Request</i>, you have 5 court days* to file and serve your own <i>Request/Counter-Request to Set Case for Trial-Unlawful Detainer</i>.</p> <p>* “Court days” means you do not count any weekends or judicial holidays.</p>

TURN OVER FOR IMPORTANT INFORMATION



Para español



WHAT IS AN UNLAWFUL DETAINER (“EVICTION”) ACTION?

An Unlawful Detainer action is a court process where a landlord asks the court to order that a tenant move out of the place where they live or work. This usually happens when a tenant doesn't pay the rent or stays after his/her lease has ended. The court will decide if the tenant must move out of the landlord's property. In these cases, the landlord is the **plaintiff** and the tenant is the **defendant**.

CAN THE LANDLORD MAKE ME MOVE OUT?

The main way landlords can legally force you to move out is if they win an Unlawful Detainer case. Then, they can get a “Judgment” for possession (this is a court order stating you must move out). The Sheriff can enforce this Judgment by making you move out.

CAN THE LANDLORD JUST LOCK ME OUT?

No. It is illegal to try to force you to leave by cutting off your electricity, removing outside windows or doors, changing the locks and/or getting rid of your personal things.

HOW LONG DOES THE PROCESS TAKE?

Since there are so many possibilities and we cannot know how quickly either party will proceed, we cannot provide a specific estimate as to the length of time the process will take. The tenant has 10 days to file an Answer for cases filed on or after 1/1/2025 and 5 days for cases filed before 1/1/2025.

- If the tenant does not file an Answer, the landlord can obtain a judgment by default. Since this does not require a hearing, it usually makes the process quicker.
- If the tenant files an Answer, the landlord must request a trial to obtain a judgment, since parties must go to a hearing, it usually makes the process slower.

Once a judgment is entered, the landlord must request a Writ of Possession and request the Sheriff's Office to service a Notice to Vacate. The Notice to Vacate will have the required move out date listed.

HOW CAN I GET HELP?

Here are some ways to get help:

- Go to <http://www.calbar.ca.gov/Public>, then click on “Lawyer Referral services” to hire or consult with a private attorney.
- For free legal advice and information, see our “Do-It-Yourself Resources” flyer. Go to www.scscourt.org, click on “Self-Help” then “Self-Help Flyers”.
- The Self Help Center/Family Law Facilitator – See our information flyer:
 - Contact us: Go to www.scscourt.org then click “**Contact the Self Help Center**”. Walk-in assistance is limited to emergencies so contact us remotely first.
 - Obtain Forms: Go to www.scscourt.org then click “**Complete Forms at Home**”
 - Form Review: These forms may be reviewed in person at the Restraining Order Help Center located at 201 N. First Street, San Jose, CA 95113, visit www.scscourt.org for current office hours. Since there are strict deadlines in eviction cases, you should go to the Self Help Center as soon as possible.
 - Note: We **cannot** help people who have attorneys.

Superior Court, County of Santa Clara
Self Help Center/Family Law Facilitator's Office
201 N. First Street, San Jose, CA 95113
408-882-2926

What to Expect at an Unlawful Detainer (Eviction) Trial

UD trials are set Wednesdays through Fridays at 8:45 a.m. in Department 4 of the Civil Division at Downtown Superior Court located at 191 N. First Street, San Jose, CA 95113.

Mediation	If both sides are present, you will have an opportunity to talk to the other side, or mediate, with the assistance of volunteer mediators and rental assistance agencies (if case is about non-payment of rent). This is different than a “meet and confer,” where the other party talks to you before court, without a mediator. You may be able to settle the case without the need for an evidentiary hearing (or trial) if an agreement is reached.
What to Bring	Make sure to bring all paperwork, your current employment information, paystubs, and any witnesses to court with you.
During the Hearing	<p>At trial, the Plaintiff (Landlord) bears the burden to prove all the elements of a “Prima Facie,” case, which includes the following:</p> <ul style="list-style-type: none"> • Standing of the Plaintiff (Landlord, owner, management company with authority to sue) • Existence of tenancy • Default/Breach by tenant • Proper Notice to Quit (NTQ) and service thereof • Tenant’s failure to comply • Monetary damages (if requested) <p>After Plaintiff presents their case at trial, Defendant (Tenant) has the opportunity to present affirmative defenses (legal reasons) as to why the Plaintiff should not prevail in, or win, their case. Defendant can also present showing why the Plaintiff did not meet their burden of proof on one or more of the Prima Facie elements in their case.</p>

The court may issue a judgment and/or order without you being present. If you miss your court date, contact the Self Help Center ASAP for more options.

Superior Court, County of Santa Clara
Self-Help Center/Family Law Facilitator’s Office
 201 N. First St., San Jose, CA 95113

VISIT US ONLINE:
santaclara.courts.ca.gov/
www.courts.ca.gov/selfhelp

EMAIL US:
santaclara.courts.ca.gov/
 click “Self-Help” then click “Contact
 the Self-Help Center”

CALL US:
 408-882-2926 Option 3
 8:30am – 1:30pm
 Mondays, Tuesdays & Thursdays

Trial Tips for Unlawful Detainer Cases

You have a right to talk to the Judge

After the Tenant files an *Answer* (form UD-105) and the Landlord (and, possibly, the Tenant) files a *Request/Counter-Request to Set Case for Trial* (form UD-150) the Tenant and Landlord will receive a letter in the mail notifying them of their Trial date. Normally, this is a Trial by a judge (unless a jury trial was requested). Many people do not know that they have a right to talk to the judge about their case when they go to court. Even if you speak to the other party, or their attorney, and they tell you that you do not need to talk to the judge, **DO NOT** leave the court without talking to the judge about what you and the other party agree or don't agree about.

If you and the other party agree, you still need to talk to the Judge about your agreement

The Judge will ask you and the other party to step outside the courtroom to discuss your case to see if you can come to an agreement without a trial. If you agree about how to resolve your case, return to the courtroom and wait for your name to be called. **DO NOT** leave the court without talking to the judge about what you both agreed to.

If you and the other party agree, don't leave the courthouse without a filed copy of the agreement.

If you settle your case and you and the other party, or their attorney, make an agreement, **DO NOT** leave the court without a copy of the agreement. Don't wait to get a copy of the agreement in the mail. Tell the other party that you will wait in the courtroom for a copy. Having a copy helps to prevent misunderstandings during a stressful time.

If you and the other party cannot agree, go back to the Courtroom and wait to talk to the Judge

If you do not want to agree to the terms the other party or their attorney is offering, you will need to see the judge. Go back into the courtroom and let the deputy know that you do not agree and are ready for the judge. Then wait for your name to be called by the clerk or judge for your Trial. If you do not hear your name called, go back to the deputy and let him know that your case has not been called yet. **DO NOT** leave the courtroom until you have spoken to the judge about your case. You have the right to a Trial.

It is important to get legal advice before your Trial so you are prepared to tell the Judge how the law supports what you are asking for. The Judge has to follow the law when making a Judgment.

The Eviction Process

