

START AN EVICTION CASE

<p>Step 1</p>	<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"/> Verification by Landlord Regarding Rental Assistance—Unlawful Detainer (UD-120) <input checked="" type="checkbox"/> Summons (SUM-130) <input checked="" type="checkbox"/> Complaint-Unlawful Detainer (UD-100) <input checked="" type="checkbox"/> Attach a copy of the lease, the 3-day, 30-day, 60-day, or 90-day notice, and Proof of Service for Notice <input checked="" type="checkbox"/> Proof of Service of Summons (POS-010) [For use after you file]
<p>Step 2</p>	<p>Make copies of the above filled out forms: Make 1 copy for you and 1 copy for each tenant, in addition to the original</p>
<p>Step 3</p> <p>There is a filing fee unless the fee is waived.</p>	<p>Turn in the original and copies to the Clerk’s office located at: 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 https://santaclara.courts.ca.gov/ or call 408-882-2100 for current office hours.</p> <ul style="list-style-type: none"> <input type="checkbox"/> If you are not asking for a fee waiver, you will pay the filing fee and get filed copies back when you file. <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 filed forms may be mailed to you. Please check with the clerk who takes your forms.
<p>Step 4</p>	<p>Service: After the filed copies are returned to you: Have an adult, not you, hand deliver a filed a copy of your forms onto the other party in the case or their attorney if they have one.</p> <ul style="list-style-type: none"> <input type="checkbox"/> 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. <input type="checkbox"/> You must file the Proof of Service of Summons form with the Clerk’s Office.
<p>Step 5</p>	<p>After you properly serve the paperwork:</p> <p>The tenant(s) has/have 10 court days* (after service) to file an <i>Answer</i> with the court clerk. <i>*"Court days"</i> means you do not count weekends or judicial holidays. Day 1 starts the day <u>after</u> the tenant is handed the forms.</p> <ul style="list-style-type: none"> <input type="checkbox"/> 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. <input type="checkbox"/> 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 decide

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 the courthouse at 191 N. First St.** Check with the Metal Detector or Clerk’s Office to find out which courtroom the hearings are held in. 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 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: Email your forms as a PDF file to SHCDocReview@scscourt.org.
 - 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