



SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO UNLAWFUL DETAINER DIVISION ANSWER PACKET

INFORMATION ON FILING AN ANSWER

When a landlord wants to end a tenancy after the tenant has taken possession of the rental premises, the landlord must take certain legal steps. An unlawful detainer proceeding is an accelerated method for recovery of possession of leased premises. Before beginning the eviction process, the landlord must begin by giving the tenant appropriate notice. The landlord must have served on the occupants a Three-day Notice to Pay or Quit, a Three-day Notice to Quit, or a 30-day, 60-day or 90-day Notice of Termination of Tenancy.

Time to allow for service begins running the day following service. If the last day of the notice falls on a weekend, the next working day is the last day of the notice. The Complaint may be filed the following day or anytime thereafter. Each person who is named as a defendant must be served with a copy of the Summons and Complaint.

IF YOU ARE THE DEFENDANT, THE TIME TO FILE A RESPONSE WITH THE COURT VARIES BY TYPE OF SERVICE:

- Personal Service:** The defendant has five (5) calendar days (excluding court holidays) from the date served to file a response. If the last day is Saturday or Sunday, the defendant has until the close of the next business day to file a response.
- Substitute Service:** Under certain circumstances, the law provides that the Summons and Complaint may be personally served on someone other than the defendant at the defendant's place of residence or employment and then copies of the documents are mailed to the defendant. When substitute service is made, the defendant has 15 calendar days (excluding court holidays) from the date the documents were mailed to file a response with the court.
- Service Pursuant to a Posting Order:** If the defendant cannot be served any other way, the court may grant an order that allows a copy of the Summons and Complaint to be posted on the property and then mailed to the defendant. **THERE MUST BE A COURT ORDER TO DO THIS TYPE OF SERVICE.** When service is done by posting, the defendant has 15 calendar days (excluding court holidays) from the date the documents were mailed to file a response with the court.



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IF YOU ARE THE DEFENDANT FILING AN ANSWER, MOTION OR DEMURRER:

Before filing any papers with the court a copy of the Answer or Responsive Pleading must be Served by mail or personal service to the attorney for the landlord or if the landlord is not represented by an attorney, to the landlord by someone over the age of eighteen and not a party to the action. You must submit a proof of service form to the court indicating that a copy of your Answer or Responsive Pleading was served to the other party in the case and how it was served before filing your original papers.

PLEASE COMPLETE THE FOLLOWING STEPS WHEN FILING AN ANSWER

- 1. Complete the attached Judicial Council form called “Answer-Unlawful Detainer.”**
- 2. Make copies(3) of your completed Answer form, Your Completed Answer form must be served before filing on the attorney for the plaintiff (landlord) or, if he/she is not represented by an attorney, then directly to the landlord (See Step 3). Service can be done by someone over the age of eighteen and NOT a Party to the action. You should make a copy for yourself. The originals are for the court file.**
- 3. You must also provide a copy of the completed Proof of Service (Personal or by Mailing) with your Answer when filing.**
- 4. File the original Answer form and the completed Proof of Service with the court.**
- 5. Filing Fees are required per answering defendant. Please consult the Superior Court Statewide Fee Schedule for the correct fee based on whether the claim is between \$0 and \$10k or between \$10k and \$25k. (If you cannot afford the fee, you can apply for a Waiver of Court Fees and Costs. Each person who cannot afford to pay the court fees and costs must complete an application form.)**

If you need assistance preparing any of the court forms or require legal assistance, you should contact a Legal Advisor. The Unlawful Detainer Advisory Clinic (no charge to plaintiffs or defendants) is located at the Carol Miller Justice Center, 301 Bicentennial Circle, Sacramento, California, 95826. They do not work by phones, but are open Monday through Friday, 8:00am until 4:00pm and closed for one hour at lunch.

The Unlawful Detainer Clerk’s Office staff cannot provide legal advice. When you are ready to file, the Clerk’s Office is also located at the Carol Miller Justice Center.



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IMPORTANT INFORMATION FOR UNLAWFUL DETAINER LITIGANTS

The Unlawful Detainer Advisory Clinic provides free legal assistance to help litigants prepare their claims. The Unlawful Detainer Advisory Clinic is available to assist the public from 8:00 a.m. to 4:00 p.m. The Clinic is closed 1 hour for lunch. The Advisory Clinic is administered and staffed by the Human Rights/Fair Housing Commission of the City and County of Sacramento. A licensed attorney is on hand to give legal advice and also supervises law students who have been trained in unlawful detainer law.

The goal of the clinic is to assist all litigants and prospective litigants in understanding the process and resolving the issues without error so as to enjoy all their rights under the law. At the same time, the clinic perseveres to minimize the load placed upon the court system by the people making mistakes or bringing unwarranted motions. The clinic's advice ranges from landlord-tenant rights and obligations and pre-eviction notices through post-judgment processes. When legal pleadings must be filed, the advisor will explain what they are and how they are to be completed.

Help is provided on a walk-in basis at the following location:

UNLAWFUL DETAINER ADVISORY CLINIC..... NO PHONE

301 Bicentennial Circle, Sacramento

Monday – Friday: 8:00a.m. to 4:00p.m. (Closed for one hour during lunch)

Free assistance for both the plaintiff and defendant. Walk in only.

MEDIATION SERVICES FOR UNLAWFUL DETAINER (EVICTION) PROCEEDINGS

Services Provided by the HUMAN RIGHTS/FAIR HOUSING COMMISSION OF THE CITY AND COUNTY OF SACRAMENTO

Mediation is a process where a mediator (neutral third party) helps to settle a dispute. If you choose to mediate your Unlawful Detainer (Eviction), you will meet with a mediator from the Human Rights/Fair Housing Commission who is trained in landlord-tenant law. Mediation is a voluntary process. This means that both landlord and tenant must be willing to enter into mediation in order for mediation to occur.

During the mediation, both sides have a chance to tell their side of the story. Formal rules of court do not apply in mediation. Mediation may assist both sides better understand the issues that are involved in their dispute. The tenant and landlord create solutions that they would both be willing to agree upon. In other words, you decide the outcome of your dispute. Then the mediator will help you prepare a written agreement. In most cases, a mediated agreement can be enforced if one of the parties fail to satisfy his or her obligation under the agreement. Mediation is considered a beneficial alternative to litigation for landlords and tenants alike for the following reasons:

- 1) **YOU** decide the outcome of your own case, not a judge; and
- 2) You can discuss many issues that may not be admitted in a court of law.

For **TENANTS**, mediation is particularly beneficial, because:

- A mediated settlement may help you avoid a credit-reporting agency from recording an eviction judgment against you.
- Negotiating a payment plan for rent monies owed means that you may be able to pay what you can over a reasonable time period rather than having to pay all at once.
- You may be able to arrange a move-out date that is convenient for you.

For **LANDLORDS** it is also beneficial, because:

- A negotiated settlement can potentially save you attorney fees and court costs associated with an Unlawful Detainer.
- Negotiated settlement and payment plans make it more likely that you will get what is owed you.
- If a move out date is negotiated, it may allow you to obtain possession of the premises more quickly that through an Unlawful Detainer proceeding.

Mediation is available by contacting the Human Rights/Fair Housing Commission at (916) 875-7843. This number is provided to make appointments for mediation services only. Due to court confidentiality, the mediators do not have access to your case file. As a result it is up to you to contact the mediator.

Services Provided by the PACIFIC McGEORGE HOUSING MEDIATION CENTER

Pacific McGeorge Housing Mediation Center (HMC) offers mediation services *free of charge* in all eligible housing disputes. Both landlord and tenant can benefit from our services where one of them qualifies as low income as defined by the federal poverty guidelines.

Who can benefit: Anyone with an eviction dispute involving *at least one low-income party* who meets our income qualifications based on the federal poverty level guidelines. Either landlord or tenant may meet the low income requirement.

If a complaint has already been filed, however, HMC's services are *only available* if the low-income party is opposing a party represented by an attorney.

What cases can be mediated: HMC primarily focuses on mediating eviction disputes *before* a complaint is filed or soon thereafter.

Where: HMC is located across the street from the Carol Miller Justice Center on the corner of Folsom and Bicentennial. Entrance is on the side of the building along Bicentennial.

20 Bicentennial Circle, suite 200

Sacramento, CA 95826

(916) 383-1861

www.housingmediationcenter.org

About our mediations: HMC will conduct mediations in which both landlord and tenant have access to an attorney. In most cases, one party will have his/her own independent counsel and the low-income party will be provided with a pro bono Limited Assistance Representation (LAR) attorney for the mediation. The LAR attorney is a volunteer from the community who will assist only for the mediation to ensure a fair and legally enforceable settlement.

BENEFITS OF FULL REPRESENTATION MEDIATION – whether you are the low income party or not, you will benefit greatly from participating in mediation where both parties are represented by counsel:

- Having attorneys on both sides helps to ensure the agreement is legally enforceable and will be upheld by both sides
- Volunteer LAR attorneys are trained in mediation advocacy and help to devise an agreement that benefits all parties
- Volunteer LAR attorneys clearly assert the low-income party's **rights** and **responsibilities** so that both are honored in the agreement

This project is a collaborative effort between the University of the Pacific, McGeorge School of Law, the Sacramento Superior Court and Legal Services of Northern California. Funding for this pilot project was provided through the 2009 Sargent Shriver Civil Counsel Act. With this funding, Pacific McGeorge has created a new Housing Mediation Center (HMC) to help serve the purposes of the Shriver Act to increase equal access to justice by mediating cases where one of the parties is low income.