

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

**UNLAWFUL DETAINER
ANSWER PACKET**



FORMS INCLUDED IN THIS PACKET	
Unlawful Detainer Answer Packet Instructions	SDSC Form #CIV-241
Answer – Unlawful Detainer	Judicial Council Form #UD-105
Proof of Service by First-Class Mail	Judicial Council Form #POS-030



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101

UNLAWFUL DETAINER ANSWER PACKET INFORMATION

An Unlawful Detainer is a lawsuit in which a landlord tries to evict a tenant because according to the landlord, the tenant no longer has the right to live on the property. This is also called an eviction. This packet contains the forms that may be used to answer an unlawful detainer matter and a brief description of the steps involved in the process.

Please be advised that court employees may not give legal advice. It is recommended that you seek legal advice or do your own legal research if you are not familiar with this legal process. Additional information is available on the Superior Court's website, www.sdcourt.ca.gov, and the Judicial Council's self-help website, www.courts.ca.gov/selfhelp-housing.htm.

READ ALL INSTRUCTIONS CAREFULLY BEFORE FILLING OUT ANY FORMS

KEY TERMS & DEFINITIONS

TERM	DEFINITION
Complaint	The lawsuit filed in the court.
Plaintiff	The party that initiates the lawsuit and files the complaint.
Defendant	The party or person sued in the lawsuit that may respond to the complaint.
Answer	A written pleading filed by the defendant in response to the complaint.
Service	The delivery of copies of legal documents to the opposing party or other person to whom the documents are directed.
Default	Failure of a party to respond to a lawsuit, or to follow proper procedure to prevent entry of a judgment against them.
Judgment	The official decision of the court stating which party won and the terms of the decision.
Writ	A court order authorizing the Sheriff to enforce and satisfy the judgment by levying on real or personal property.

FEES

A fee is required to file an answer or respond to the Unlawful Detainer. To determine the amount of the fee, refer to the current version of the Fee Schedule (SDSC Form #ADM-001), available on the court's website: www.sdcourt.ca.gov.

WHAT IF I CANNOT AFFORD THE COURT FEES?

If you think you cannot afford to pay the court fees, refer to the Information Sheet on Waiver of Superior Court Fees and Costs (JC Form #FW-001-INFO), included in this packet. If you feel that you may qualify for a waiver according to the guidelines, complete the Request to Waive Court Fees (JC Form #FW-001) and Order on Court Fee Waiver (JC Form #FW-003), also known as a "fee waiver." Submit the fee waiver with your response to the court.

COMPLETING FORMS

It is recommended that you type or print responses within the forms in black or blue-black ink.

FORM	ACTION
<ul style="list-style-type: none">Answer – Unlawful Detainer (JC Form #UD-105)	<ul style="list-style-type: none">Complete front and back of the form.Multiple defendants may file an answer together; however, each person answering must date, sign <u>and</u> pay a filing fee, or file their own fee waiver.Make two copies of this form.

COMPLETING FORMS, cont.

FORM	ACTION
<ul style="list-style-type: none">• Proof of Service By First-Class Mail (JC Form #POS-030)	<ul style="list-style-type: none">• Have someone over 18 years of age that is not a party to the case, complete this form.• The person who signs the form is stating under penalty of perjury that they will mail a copy of the Answer to the <u>plaintiff</u> or the <u>plaintiff's attorney</u>.• Make two copies of this form.
<ul style="list-style-type: none">• Request to Waive Court Fees (JC Form #FW-001)• Order on Court Fee Waiver (JC Form #FW-003)	<ul style="list-style-type: none">• Complete these forms if you want to apply for a fee waiver and have the court fees waived. Refer to the Information Sheet on Waiver of Court Fees and Costs (JC Form #FW-001-INFO).• Each defendant who signs the Answer must pay a filing fee or submit their own fee waiver.• Make a copy of each form.

DISTRIBUTING COPIES

What to do with your completed documents:

- Take all of your original documents to the civil business office of the court location marked on your paperwork to be filed.
- Also bring one set of copies with your original documents so the clerk can stamp (conform) them for you to keep for your records.
- Have a copy of the Answer and Proof of Service served on the plaintiff or the plaintiff's attorney. (see below)

SERVICE

Once you have completed the forms, you are required to notify the other side that you intend to answer or respond. This is called service of process, or *servicing*, which simply means giving a copy of your answer and proof of service to the plaintiff or plaintiff's attorney, if they have one. You cannot do this yourself, but anyone who is over the age of 18 who is not a party to the case can serve the papers for you. You may also have a registered process server serve these papers, but you should be aware that they charge a fee for this service. The person who serves the plaintiff or the plaintiff's attorney needs to complete a Proof of Service (see above), and give it to you so you can file it with the court.

FILING AT THE COURT

How to file documents with the court:

- Take all of your original documents and copies to the civil business office of the court location marked on your paperwork to be filed.
- Pay the appropriate filing fee for each person that signed the Answer,
OR
- File a fee waiver for each person that signed the Answer. The clerk will file stamp your copies and return them to you.

TRIAL NOTIFICATION

Once the trial date has been set, you will be notified by mail. It is your responsibility to keep the court informed of your current address.

Note: If needed, you must bring your own interpreter to court (ADA requirements excluded). The court will not provide this resource for you or your witnesses.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF G5 B 8 9; C CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101	
Plaintiff: Defendant:	
ANSWER—UNLAWFUL DETAINER	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)

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> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101	
PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	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)
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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.

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.