



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

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

UNLAWFUL DETAINER COMPLAINT 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 in 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 may be found on the Superior Court's website at 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

The fee required to file an unlawful detainer lawsuit is based on the amount of money in controversy.

- The complaint fee is broken down as follows:
 - Amount demanded is \$10,000 or LESS
 - Amount demanded is OVER \$10,000 but does not exceed \$35,000
 - Amount demanded is OVER \$35,000

To determine the amount of the fee, refer to the Fee Schedule (SDSC Form #ADM-001), which may be found on the Superior Court's website at www.sdcourt.ca.gov.

In addition to the initial filing fee for the complaint, there may be other fees you will pay throughout the life of the case for filings such as motions or issuing a writ.

WHAT IF I CANNOT AFFORD THE COURT FEES?

If you cannot afford to pay the court fees, you may request the court waive all or some filing fees or costs by applying for a fee waiver. Refer to the Information Sheet on Waiver of Superior Court Fees and Costs (JC Form #FW-001-INFO) for additional information. To request a fee waiver, complete the Request to Waive Court Fees (JC Form #FW-001) and Order on Court Fee Waiver (JC Form #FW-003). These forms are available in the clerk's office or on the Judicial Council website, www.courts.ca.gov/forms.htm.

**COURT
PROCESS**

STEP	ACTION
Filing the Complaint	<p>Complete one of each of the following:</p> <ol style="list-style-type: none"> 1. Complaint – Unlawful Detainer (JC Form #UD-100) <ul style="list-style-type: none"> Check the boxes that describe your case. Pursuant to Code of Civil Procedure section 1166, actions filed involving <u>residential property</u> must include the following exhibits attached to the complaint: <ul style="list-style-type: none"> A copy of the 3-Day, 30-Day, or 60-Day Notice, or Notices of Termination served on the defendant upon which the complaint is based. A copy of any written lease or rental agreement, including any addenda or attachments regarding the premises, <u>unless</u> the action is based on: <ul style="list-style-type: none"> An oral contract (item #6b on the complaint form), and/or The action is solely for nonpayment of rent (item #6f(2) on the complaint form) 2. Summons – Unlawful Detainer (JC Form #SUM-130) <ul style="list-style-type: none"> All defendants must be listed on the summons exactly as they are listed on the complaint. 3. Plaintiff's Mandatory Cover Sheet and Supplemental Allegations-Unlawful Detainer (JC Form #UD-101) <ul style="list-style-type: none"> Complete the items that apply to your case. 4. Civil Case Cover Sheet (JC Form #CM-010) <ul style="list-style-type: none"> Check the boxes that best describe your case. <p>Present your completed documents and the proper filing fee to the civil business office to get a case number. The court will keep the original documents and conform <u>one</u> copy you provide. After you file your case, you will need to make additional copies for service if you have multiple defendants, or wish to keep a copy for your records.</p>
Service on the Defendant	<p>Once you have filed your case with the court, each defendant must be served with a copy of the complaint and summons. Service may be performed by a registered process server, or any person over the age of 18 years who is not a party to the action.</p> <p>The original Proof of Service of Summons (JC Form #POS-010) must be filed with the court <u>after</u> service on the defendant(s) is completed.</p>
Answer by Defendant	<p>If the defendant files an Answer to your complaint, the case must be set for trial. To request a trial date you must:</p> <ol style="list-style-type: none"> Complete a Request/Counter-Request to Set Case for Trial-Unlawful Detainer (JC Form #UD-150). Prepare the original and one copy to be mailed to each defendant who has filed an answer. A copy must be mailed to each answering defendant by someone <u>not</u> a party to the lawsuit. The person doing the mailing must complete the Proof of Service by Mail on the back of the form. Submit the original to the clerk for processing. The Proof of Service by Mail must be completed on the back of the form <u>before</u> filing with the clerk. If you want a copy returned to you, submit a copy along with the original and a self-addressed stamped envelope to the clerk for processing. <p>All parties will be notified by mail of the trial date and time. Trial dates will be set within 20 days from the date the Request/Counter-Request to Set Case for Trial-Unlawful Detainer (JC Form #UD-150) is filed.</p> <p>Before a case can be set for trial, all defendants in the case must have filed an answer, or been dismissed or defaulted by you (the plaintiff).</p>

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cont.

STEP	ACTION, cont.
Judgment After Trial	<p>The party that prevails at the trial must prepare the judgment form.</p> <ul style="list-style-type: none"> • Complete Judgment – Unlawful Detainer (JC Form #UD-110) • Submit a Memorandum of Costs (Summary) (JC Form #MC-010), if not previously submitted. This form is required if costs were claimed and awarded in the judgment.
Default & Judgment for Possession Only	<p>If the defendant does NOT file an Answer to the complaint after being served, you may request a default judgment against them.</p> <ol style="list-style-type: none"> 1. Complete an original and one copy of the form Request for Entry of Default (JC Form #CIV-100). 2. A copy must be mailed to each defendant who is being defaulted by someone <u>not</u> a party to the lawsuit. 3. Complete an original and make a copy of the form Verification by Landlord Regarding Rental Assistance (JC Form #UD-120) if you are seeking a default judgment for possession of residential property based on nonpayment of rent or any other financial obligation under a lease. 4. Submit for filing to the clerk: The <i>original</i> Request for Entry of Default, Proof of Service for each defendant served, Verification by Landlord Regarding Rental Assistance, and a completed judgment form for the clerk's judgment for possession only. <p>You may also complete a Writ of Execution (JC Form #EJ-130) and submit this with the default judgment forms. (<i>See Writ of Execution section below.</i>)</p> <p><i>Note: Forms to obtain a money judgment after the defendant(s) has vacated the premises are not included in this packet.</i></p>
Writ of Execution	<p>Judgment must be entered before a writ of execution can be issued.</p> <ol style="list-style-type: none"> 1. Complete a Writ of Execution (JC Form #EJ-130); be sure to complete items #9, 22, and 25. 2. Complete the Request for Sheriff to Serve Court Papers (JC Form #SER-001) and Special Instructions for Writs and Levies -Attachment (JC Form #SER-001A) for execution of the writ. 3. Submit completed forms to the clerk with the filing fees: <ul style="list-style-type: none"> • A check payable to "Clerk of the Superior Court," for the issuance of the Writ. • A check payable to the "Sheriff" if you want the clerk to send the writ to the Sheriff's Office after issuance. <p><i>Note: You also have the option of delivering the issued writ to the Sheriff's Office yourself.</i></p>
Dismissal	<p>If the defendant(s) vacates the premises or you decide not to proceed to judgment or trial, you must file a dismissal of the action to close out or dispose of your case.</p> <ol style="list-style-type: none"> 1. Complete a Request for Dismissal (JC Form #CIV-110). 2. Submit the original to the clerk for processing. 3. If you want a copy returned to you, submit a copy along with the original and a self-addressed stamped envelope to the clerk for processing. <p><i>Note: Within 45 days after the unlawful detainer case has been filed, a judgment or dismissal must be entered or the case will be placed on calendar for a hearing to show cause why the case should not be dismissed for lack of prosecution.</i></p>

**COPIES FOR
YOUR
RECORDS**

If you would like a file-stamped copy (also known as a conformed copy) of any of your documents, you must provide one additional copy and a self-addressed envelope with sufficient postage at the time you submit your documents for filing.