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# DO'S AND DON'T OF EVICTIONS

**OCTOBER 26, 2019**

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Housing Equality & Advocacy Resource Team

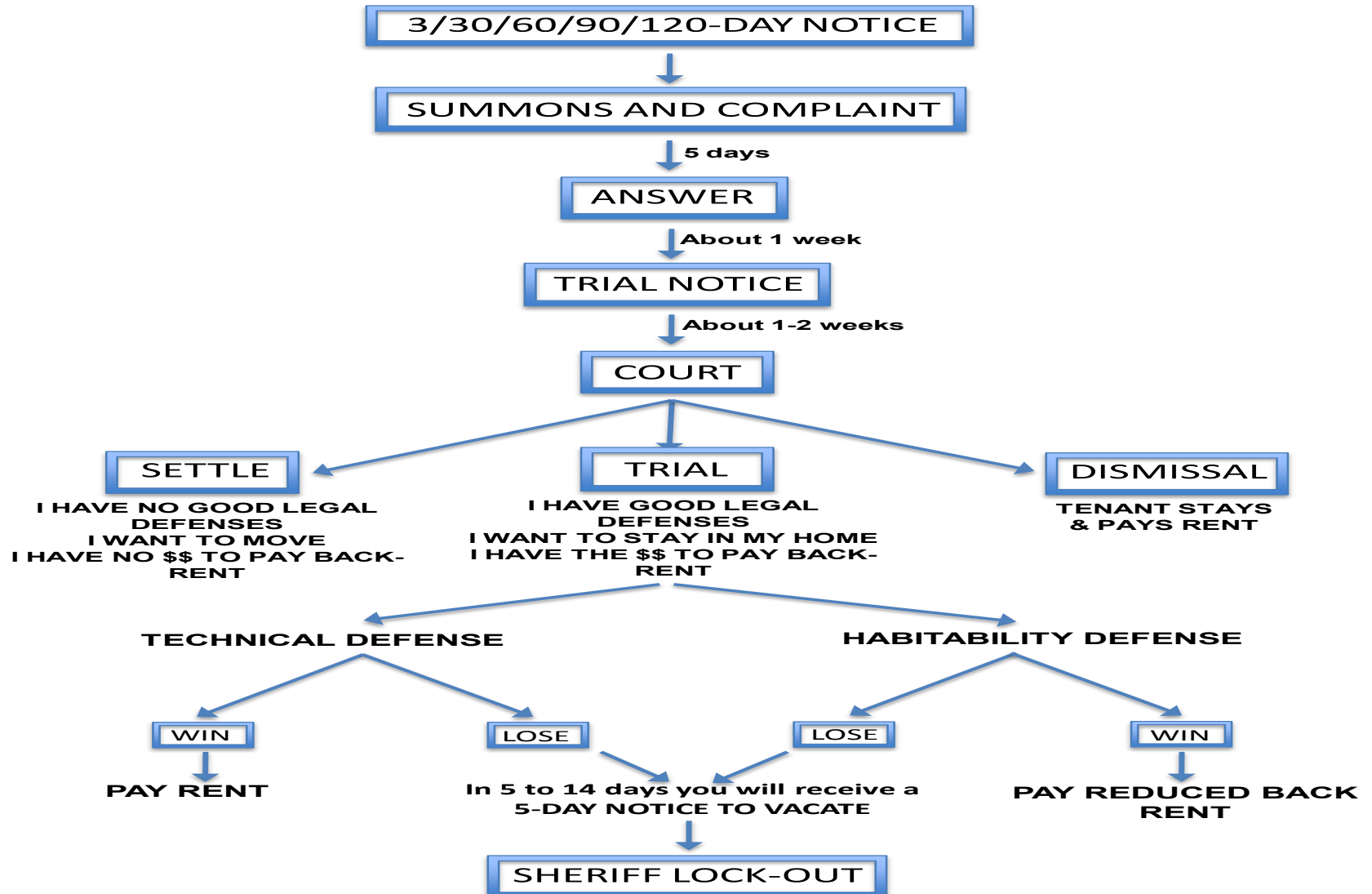
- Access to services, education, resources
  - Power dynamics between the landlord and tenants
  - 45,000 evictions filed in Los Angeles County in 2018
    - 85% - 90% of tenants are unrepresented
- 30% of pets surrendered to a shelter are due to housing issues
- Mission of HEART L.A.- Keeping people and their pets in their homes
  - Advocating for elimination of barriers for people and the pets
  - Providing free legal representation to low-income individuals and families who are facing eviction

# Do's & Don't of Eviction Defense

- Don't wait to file a response until you are “properly” served the Summons & Complaint
- Do get involved with a community based tenant group
- Do determine if you have rent control protections
- Do file a jury demand
- Do file complaints with governmental agencies to assert your rights
- Do get an attorney

# Eviction Overview

## THE UNLAWFUL DETAINER (EVICTION) PROCESS

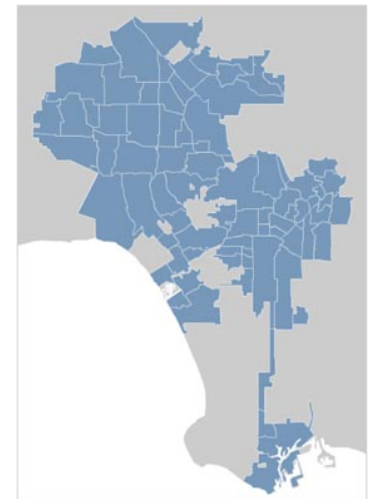
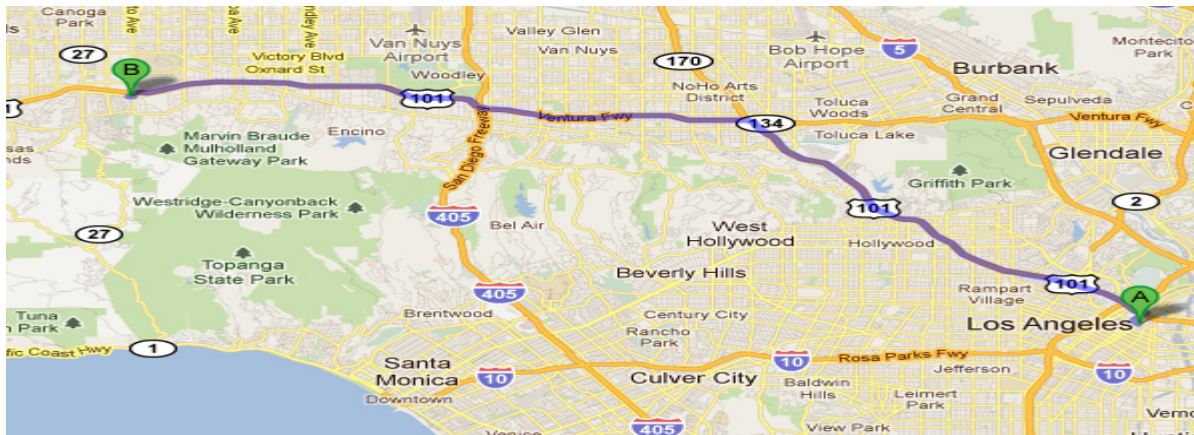


# **RENT CONTROL**

# Properties Covered by LARSO

1. Property is Within Los Angeles City Limits;
2. The Property is Built Before October 1, 1978;
3. The Property has Two or More Dwellings on the Premises.

**A tenant lives in a duplex unit that is located in Woodland Hills, California. The landlord has not painted the exterior walls since 1976. Is the property covered by the RSO?**



# PROPERTIES NOT COVERED OR EXEMPT FROM THE LARSO

1. Property is located in other municipalities or unincorporated areas with Los Angeles County;
2. Property is a single family dwelling and used as such, except for illegally converted additional units;
3. Government owned properties;
4. Non-profit owned units (SROs), with certain qualifications;
5. Hotels/Motels – with tenancy under 30 days; and
6. Units occupied by an family member or owner where no rents are collected



# Additional LARSO Protections

- **Owner can't change terms of tenancy**
  - If pets allowed before, they stay
    - Los Angeles Municipal Code §151.09(D)
  - No unilateral change of terms
    - LAMC §151.09(A)(1)(2)(C)
- **Notice must be with specificity**
  - Must allow determination for date, place, witness, circumstances
- **More information:**
  - <http://hcidla.lacity.org/renters>
  - ZIMAS ([zimas.lacity.org](http://zimas.lacity.org))
  - LA County Property Assessment Information System
  - [www.ownit.la](http://www.ownit.la)

# Other Cities with Rent Control

- West Hollywood -Unincorporated LA
- Inglewood -Santa Monica
- Glendale -Beverly Hills
- Maywood

## CA State Law

- **AB 1482 – effective January 1, 2020 and sunset 1/1/203**
  - Just cause Evictions- rentals units built before 1/1/2005; Tenant lived in unit for up to one year or more; SFH owned by a corporation or LLC
  - No Fault Evictions
  - Rent Increase Cap- 5% plus regional CPI r 10% whichever is lower
    - If rent increased between 3/15/19-1/1/2020- rent will be amount as of 3/15/19, plus allowed increase of 5% + CPI
- **No change of terms of tenancy without notice**
  - Civil Code Section 827
- **Lease must be in language terms were negotiated**
  - Civil Code Section 1632
- **No Breed restrictions**
  - Health & Safety Code Section 122330-122331

# SIX Common REASONS FOR Eviction

LARSO provides only 14 “just cause” reasons for evictions. These are the most common:

- × Failure to **pay rent**;
- × A **violation of a lawful obligation or covenant** and **failed to cure that violation**;
- × **Committing a nuisance or causing damage**;
- × **Refusing reasonable access** to unit;
- × Landlord seeking **possession of unit for themselves or family member** or a resident manager;
- × Seeking possession to **comply with a govt. order**.



# THE EVICTION PROCESS

# Unlawful Detainer Notices

## No Fault/Cause Notices

- 30/60-Day notice to vacate
  - Mostly seen in Non-Control Properties
- 90-Day Notice
  - Cancel Government subsidized housing
  - Not the fault of the tenant, but still need good reason
- 120-Day Notice
  - Landlord taking unit off of rental market

## For Cause Evictions

- 3/10/14 days notice to pay rent or quit
- 3/10/14 days notice to cure / perform or quit
- 3/10/14 days notice to quit
- 30/90 days notice to quit
  - Public Housing and Project-Based Housing
  - Section 8 Vouchers

# Step 1: Eviction Notice Stage

Notice must be  
**WRITTEN.**

**STRICT COMPLIANCE** with notice requirements.

Time for compliance begins to run the day after notice is served.

## THREE DAY NOTICE TO PAY RENT OR QUIT

TO: **Joseph Resident**

AND ALL OTHERS IN POSSESSION:

YOU ARE HEREBY NOTIFIED that pursuant to the lease or rental agreement under which you hold the possession of the hereinafter described premises, there is now due and unpaid rent in the total sum of:

One Thousand One Hundred (\$ 1,100 )

representing rent due from March 1<sup>st</sup> through March 31<sup>st</sup>

YOU ARE FURTHER NOTIFIED that within Three (3) days after service of this Notice on you, you must pay the amount of said rent in full or quit said premises and deliver up possession of the same to the landlord/agent or the landlord/agent will institute legal proceedings for an unlawful detainer against you to recover possession of said premises, to declare said lease or rental agreement forfeited and to recover rent and damages.

YOU ARE FURTHER NOTIFIED that by this Notice the landlord/agent elects to and does declare a forfeiture of said lease or rental agreement if said rent is not paid in full within the said three (3) days. The premises are located at:

2424 Sunny Lane Pl. #3, Los Angeles, CA 90006

Date: 3/26/11 LANDLORD/AGENT Sheila Manager

Person to Pay: Sunny Lane Place, Inc.

Address to pay: 2424 Sunny Lane Place, Manager's Office #1

Phone Number: (213) 121-1212 (Payment may be made at any time within the time stated. (Monday through Saturday 8:30 AM through 5:30 PM)

*This form was created by The Law Firm of Dennis P. Block and Associates  
www.evict123.com (See Other Forms)*

Los Angeles (323) 938-2868 Inglewood (310) 673-2996 Echo Park (311) 986-3147

Long Beach (562) 434-5000 Pasadena (626) 798-1014 San Bernardino (909) 877-6565

Ventura (805) 653-7264 Orange (714) 634-8232 Fax (323) 938-6069 Tex (714) 634-3633

If you need assistance in filling out this form, please consult with an attorney.

# Notice to Pay Rent or Quit

Pay rent within  
3 days.

Notice must include  
the Code of Civil  
Procedure §  
1161(2)  
requirements.

Cannot demand  
rent beyond one  
year.

Under LARSO, unit  
not registered =  
No Rent!



## THREE (3) DAY NOTICE TO PAY RENT OR QUIT

TENANT(S): \_\_\_\_\_

PREMISES: \_\_\_\_\_ Normandie Ave  
(Apt. No.) (Address) (St., Ave., Blvd., etc.)  
\_\_\_\_\_  
(City) Los Angeles California 90006  
(Zip Code)

Rent Per Month: \$ 380.00  
Date Rent Due: 1st day of every month  
Total Delinquent Rent: \$ 760.00 (6/1/11 - 7/31/11)

### TO TENANT(S):

Within three days after the date of service of a copy of this notice upon you, you are required to:

1. Pay the total delinquent rent due for the premises, as stated above; or
2. Quit and deliver up possession of the premises to the undersigned.

IF YOU FAIL either to pay the total delinquent rent or quit possession of the premises within three days after the date of service of a copy of this notice, legal action will be instituted for possession of the premises, for forfeiture of the rental agreement and for such other damages as may be allowed by law.

Such legal action could result in a judgment against you which would include the costs, attorneys fees and necessary disbursements allowed by law.

Landlord elects to declare forfeiture of your rental agreement. This notice supersedes all prior notices to pay rent or quit served upon you.

Person to whom rent is to be paid: \_\_\_\_\_

Address where rent is to be paid: \_\_\_\_\_ Kingsley Dr. \_\_\_\_\_ L. A CA 90020

Days on which rent may be paid: \_\_\_\_\_ Monday - Friday.

Times at which rent may be paid: \_\_\_\_\_ 9:00A.M - 5:00P.M

Telephone No. where rent may be paid: \_\_\_\_\_ (213) \_\_\_\_\_

Date: July 25, 2011 Owner/Agent Signature: \_\_\_\_\_

\*As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.\* CC1785.26(c) (2).

Sec. 594 of the Penal Code of California

"Every person who maliciously injures, or destroys any real property not his own . . . is guilty of vandalism." (A Felony or Misdemeanor)

# Notice to Perform or Quit

Tenant must "cure" the lease violation.

Under RSO, must set forth detailed circumstances.

L.A.M.C. § 151.09 (C)(1)

WRITTEN lease agreement must exist.

## NOTICE TO PERFORM CONDITIONS AND COVENANTS OR QUIT

TO:

AND ALL OTHERS IN POSSESSION:

YOU ARE HEREBY NOTIFIED that you are in violation of the terms of your lease or rental agreement of the premises located at:

Address \_\_\_\_\_

City \_\_\_\_\_, California

The terms of this violation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Witness \_\_\_\_\_

Time and Date \_\_\_\_\_

Within three (3) days after the service on you of this notice, you are hereby required to perform or otherwise comply with the above-mentioned conditions and covenants or QUIT AND DELIVER UP THE POSSESSION OF THE PREMISES.

You are further notified that, the undersigned does hereby elect to declare the forfeiture of your rental agreement under which you hold possession of the above described premises if you fail to perform or otherwise comply. Lessor will institute legal proceedings for unlawful detainer against you to recover possession of said premises, to declare said tenancy forfeited, and to recover treble rents and damages for the unlawful detention of said premises.

Dated: \_\_\_\_\_ Landlord \_\_\_\_\_

This form was prepared by the Law Firm of Dennis P. Block and Associates

Los Angeles (323) 938-2868 Inglewood (310) 673-2996 Encino (818) 986-3147

Long Beach (562) 434-5000 Pasadena (818) 798-1014 San Bernardino (909) 877-6565

Ventura (805) 653-7264 Orange (714) 634-8232

Fax (323) 938-6069 Fax (714) 634-3633

If you need assistance in filling out this form, please consult with an attorney



# Notice to Quit

Tenant is unable to  
“cure” the lease  
violation.

Under RSO, must set  
forth detailed  
circumstances.

L.A.M.C. § 151.09  
(C)(1)

Nuisance, criminal  
activity

## THREE DAY NOTICE QUIT NON CURABLE BREACH)

TO \_\_\_\_\_  
and all other tenants in Possession of the premises describes as:

Address \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_ California

NOTICE IS HEREBY GIVEN that within three (3) days after service on you of this notice, you must quit and surrender possession of the premises described above to the landlord under which you hold possession of the premises, or your landlord's agent. If you fail to vacate and surrender possession of the premises within the three-day period, legal proceedings will be commenced against you to recover possession of the premises, and to recover a judgment for \$600.00 punitive damages for your unlawful detention of the premises, together with costs of suit and attorney fees, if provided for within your lease.

You are in violation of the terms of your lease, and said violation is a non- curable breach in that you:

YOU ARE FURTHER NOTIFIED that your conduct is a non-curable breach of your lease and that by this notice your landlord, elects to, and does hereby declare a forfeiture of the lease or rental agreement under which you hold possession of the premises .

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Owner/Manager/Agent of Owner or Attorney for Landlord

## PROOF OF SERVICE

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served the above notice, of which this is a true copy, on the above-mentioned tenant(s) in possession in the manner(s) indicated below:

- On \_\_\_\_\_, 20\_\_\_\_, I handed the notice to the tenants.
- On \_\_\_\_\_, 20\_\_\_\_, after attempting personal service, I handed the notice to a person of suitable age and discretion at the tenant's residence/business and mailed a copy to tenants residence by first class mail, postage prepaid.
- On \_\_\_\_\_, 20\_\_\_\_, after attempting service in both manners indicated above, I posted the notice on a conspicuous place at the tenant's residence, and mailed a copy to tenants residence by first class mail, postage prepaid.
- On \_\_\_\_\_, 20\_\_\_\_, I deposited a true copy of the notice in the United States Mail in a sealed envelope with postage fully prepaid, addressed to the tenant at his place of residence.

Executed on \_\_\_\_\_, 20\_\_\_\_, at the City of \_\_\_\_\_, County of \_\_\_\_\_  
State of California.

Served by \_\_\_\_\_

# Notice Defenses

## Pay or Quit Notice:

- Rent is not due;
- Late fees;
- Incorrect rent demanded;
- Failure to Register with LAHD;
- Fails to state specific information pursuant to C.C.P. §1161(2); or
- Not served.

## Perform or Quit Notice:

- No written lease;
- Fails to state how to cure alleged violation;
- Fails to provide sufficient detail to correct alleged violation (LARSO).

## QUIT NOTICE:

- ✘ Not in the alternative and breach is “curable.
- ✘ Fails to provide sufficient detail to defend alleged violation (LARSO).

# Identifying a Defective Notice:

**Examine this notice.**

**Are there any defects  
on the face of the  
notice?**

**What defenses would  
apply just based on  
this notice?**

**Does the notice  
overstate the amount  
of rent due.**

Sheila Manager  
2424 Sunny Lane Place, Manager's Office  
Los Angeles, CA 90006

March 26, 2011

Joseph Resident  
2424 Sunny Lane Place, # 3  
Los Angeles, CA 90006

## THREE DAY NOTICE TO PAY OR QUIT

This letter is a formal notice to you demanding that you make immediate payment of the unpaid rent due under the terms of the rental agreement covering the following:

2424 Sunny Lane Place, # 3  
Los Angeles, CA 90006

As of March 26, 2011, your March rent payment is 26 days past due. Your rent was due on March 25, 2011. In addition, you owe late charges as provided by the rental agreement.

The following is an itemization of the total amount of rent owed:

Unpaid Rent	\$1,100.00
Late Charges	\$ 50.00
Total	<u>\$1,150.00</u>

This is a serious situation which requires your immediate attention. If payment is not received by March 26, 2011, legal action to enforce your obligation under the rental agreement may be taken.

I can be contacted if you have any questions or need additional information. I can be contacted by phone at (818) 303-3030.

Sincerely,

Sheila Manager

# Service of the Notice (CCP §1162)

The notice may be served upon the tenant in one of three ways:

- Personally
- Leaving a copy with a person of suitable age and sending a copy by mail
- Nail and mail

# Step 2: The Unlawful Detainer

Eviction process begins by filing a summons and complaint.

Named Defendant(s) must be personally served a copy of the summons and complaint. (Except: Posting Order)

The Court will mail out a Notice stating that UD lawsuit has been filed.

SUM-130

**SUMMONS  
(CITACION JUDICIAL)  
UNLAWFUL DETAINER—EVICTION  
(RETENCION ILICITA DE UN INMUEBLE—DESALOJO)**

NOTICE TO DEFENDANT: [REDACTED] and Does 1 to 10  
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF: [REDACTED]  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY  
ORIGINAL FILED

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

AUG 02 2011

John A. Clarke, Executive Officer/Clerk  
BY GINA GRIDER Deputy

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

*Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos eventos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

1. The name and address of the court is: Superior Court of California, County of Los Angeles  
(El nombre y dirección de la corte es): Angeles  
111 North Hill Street  
Los Angeles, California 90012

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Rebecca Hufford-Cohen  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
[REDACTED] North Camden Drive Suite 600, Beverly Hills, CA 90210  
(310) 860-5107

3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415)  did not  did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date: John A. Clarke Clerk by GINA GRIDER, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

(SEAL)

AUG 02 2011

4. NOTICE TO THE PERSON SERVED: You are served

a.  as an individual defendant.

b.  as the person sued under the fictitious name of (specify):

c.  as an occupant

d.  on behalf of (specify):

under:  CCP 416.10 (corporation)  CCP 416.60 (minor)

CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)

CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)

CCP 415.46 (occupant)  other (specify):

5.  by personal delivery on (date):

Page 1 of 2

Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-130 (Rev. July 1, 2009)

SUMMONS—UNLAWFUL DETAINER—EVICTION

Code of Civil Procedure, §§ 412.20, 415, 456, 1167  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)  
pDOC



# Common Complaint Defects

- **Notice Not Attached**
- **Lease Not Attached**
  - Lease agreement must be attached for cases not based on failure to pay rent.
  - Except: oral lease or not within Plaintiff's possession.
- **Tenant Not Named as a Defendant**
  - Prejudgment Claim of Right of Possession must be filed within 10 days of service of summons & complaint (C.C.P. §415.46)
- **Tenant Named But Incorrect Address**
- **Plaintiff Has No Standing**
  - i.e. No longer owner of property; not an agent for owner
- **Complaint Filed Before Notice Expired**

# Step 3: Filing a Response

**5 DAYS** to file an answer.

If no answer filed, a default judgment will be entered and tenant will have to vacate without a hearing.

Defendant must claim defense(s) to complaint's allegations. (File an amended answer.)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): JAVIER BELTRAN (SBN: 240416) INNER CITY LAW CENTER 1309 E. 7TH STREET LOS ANGELES, CA 90021	TELEPHONE NO.: T: (213) 891-2880 F: (213) 891-2888	FOR COURT USE ONLY
ATTORNEY FOR (Name): JOSEPH RESIDENT		
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. HILL STREET MAILING ADDRESS: CITY AND ZIP CODE: LOS ANGELES, CA 90012 BRANCH NAME: CENTRAL		
PLAINTIFF: SUNNY LANES APARTMENTS, INC.		
DEFENDANT: JOSEPH RESIDENT		
<b>ANSWER - Unlawful Detainer</b>		CASE NUMBER: 09U12121

1. Defendant (names): JOSEPH RESIDENT

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 (use paragraph numbers from the complaint or explain):

Continued on Attachment 2b(1).

- (2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (use paragraph numbers from the complaint or explain):

6 (a) (2); 6 (b); 7 (a) (1); 7 (b) (1) and (2); 8 (a) (3); 10; 11

Continued on Attachment 2b(2).

3. AFFIRMATIVE DEFENSES (NOTE: For each box checked, you must state brief facts to support it in the space provided at the top of page two (item 3j).)

- 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 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): LAMC 151.00 et seq., LOS ANGELES RENT STABILIZATION ORDINANCE
- (Also, briefly state the facts showing violation of the ordinance in item 3j.)
- h.  Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.
- i.  Other affirmative defenses are stated in item 3j.



# DEMANDING A JURY TRIAL

## What is a jury trial?

The right to a jury trial in civil cases is guaranteed by the California Constitution, article I, section 16. This right is specifically granted in unlawful detainer actions by Code of Civil Procedure section 1171.

A jury trial means you are choosing to have your court case heard by a jury of your peers versus a judge. If you choose to have your case heard in front of a judge, this is called a bench trial.

## How do I demand a jury trial?

You must demand a jury trial in writing in order to preserve your right to a jury trial. To secure your right to a jury trial, you must file a demand for jury trial within **FIVE days** of receiving the notice of trial date. The five days includes weekends and holidays.

## Do I have to pay for a jury trial?

Upon demanding a jury trial, you will also need to file an **Additional Fee Waiver** (FW002) and the accompanying fee waiver order (FW003).

If you do not qualify for a fee waiver, you will need to pay the **jury deposit fee** in the amount of \$150, five days before your date of trial. You will also be responsible for the daily jury fees

# Jury Demand- it's Your Constitutional Right

## Why Demand a Jury Trial?

In our experience, a number of tenants receive better results when they have their case decided by a jury, which consists of people from the community versus one judge. Demanding a jury trial also provides you an advantage in negotiations.

**Please note that it is advised that you seek an attorney to represent you in your case, regardless of whether you have a jury trial or a bench trial.**

Specifically for a jury trial, there are requirements that must be met which include filing jury documents which include but are not limited to jury instructions, statement of the case, exhibit list, witness list, and a verdict form.

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Defendant(s) in pro per or self-represented

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

\_\_\_\_\_) Case No.: \_\_\_\_\_  
Plaintiff(s), ) DEMAND FOR JURY TRIAL CCP § 631  
vs. )  
\_\_\_\_\_)  
Defendant(s) )

To the clerk of the above-entitled court, to all parties and their attorney(s) of record if applicable:  
NOTICE IS GIVEN that Defendant(s): \_\_\_\_\_  
demand(s) a jury trial in this unlawful detainer action.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Defendant(s) without an Attorney

# UD Defenses

## Pay or Quit Notice:

- Breach of Implied Warranty of Habitability
- Waiver - rent accepted after notice expired
- Tenant attempted to pay rent, but landlord refused (Civ. Code § 1485)
- Estoppel - landlord made an agreement that rent could be paid at a later date

## Perform or Quit/Quit Notices:

- Tenant actually or substantially complied
- Waiver - accepted rent with knowledge of breach
- Estoppel – landlord by words or actions led tenant to believe that a particular covenant would not be enforced
- Retaliation
- Discrimination



# Warranty of Habitability

## How it Applies:

- The California Supreme Court has held that an implied warranty of habitability is implied in all residential rental agreements. *Green v. Superior Court* (1974) 10 C3d 616.
- Landlord's obligation to maintain the premises in habitable condition throughout the tenancy.
- Cal. Civ. Code § 1941: affirmative duty to repair any conditions that impair the habitability of the premises. Defense in non-payment of rent cases.
- Tenant will still be liable for a reduced portion of the rent demanded, depending on the Court's discretion.

# What is a Breach?

**Rebuttable presumption** of breach if:

- The dwelling unit “substantially lacks” any CC § 1941.1 “affirmative standard characteristics” or is deemed “substandard” pursuant to Health & Safety Code § 17920.3 or contains lead hazards;
- A government entity has given written notice to the landlord of the obligation to repair the substandard or unsafe conditions (CC § 1942.3(a)(2));
- The conditions still exist 60 days after issuance of the above notice and landlord has failed to repair (CC § 1942.3(a)(3));
- The conditions were not caused by the tenant's act or omission (CC § 1941.2)



# Retaliation

- Civil Code §1942.5: prohibits retaliation for complaints regarding tenantability or otherwise asserting the tenant's legal rights.
- Cannot be used in non-payment cases (maybe).
- Tenant has burden of proving retaliatory motive.
- Protected acts: oral/written complaints re: habitability, requesting inspection , and participating in tenant organizing.
- Protected act occurred within 6 month period of the landlord's notice.
- LL burden: good-faith reason for termination of tenancy.
- Cannot be used more than once within a 12-month period.

# Miscellaneous Defenses

- No written lease, no covenants to breach.
- Unit is not legally constructed.
- Violated covenants of Quiet Enjoyment and Good Faith and Fair Dealing.
- Plaintiff has not complied with fictitious business name laws (Ca.B.P.C. § 17918).
- Plaintiff is a business entity and cannot represent itself in pro per.
- Res Judicata or Collateral Estoppel.
- Tenant has filed for bankruptcy!

# LARSO-Specific Defenses

- Review: In L.A., COO issued before Oct. 1, 1978, and two or more residential units on the lot.
- Common Defenses:
  - Failure to Register and/or Post Registration §151.05
  - Defective Notice §151.09(C)
  - Illegal Rent Increase §151.04
  - REAP/Substandard Order §162.09
  - Moratorium on Foreclosure Evictions L.A.M.C. Ch. IV, Article 14.1 §49.92
  - Retaliation §151.09(B)



# Substantial Compliance

- Applies to “Cure or Quit” notices.
- Trivial breach not enough to support forfeiture of tenancy.
- Tenant must have substantially “cured” the alleged breach.
- See, *McNeece v. Wood* (1928) 204 Cal. 280, *Knight v. Black* (1912) 19 Cal.App. 518

# Using Reasonable Accommodations to Prevent Eviction

# What is a Reasonable Accommodation?

- Change, exception, or an adjustment to a rule, policy, practice, or service

# When can a tenant ask for a Reasonable Accommodation?

- Does the tenant seeking to use and live with their pet have a disability that [substantially\*] limits one or more major life activities?
- Does the pet provide assistance, perform tasks or services for the benefit of the tenant with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of the tenant's existing disability?

# Reasonable Accommodations

## Federal & State Law

### Federal Fair Housing Act (FHA) & Americans with Disabilities Act (ADA)

- Definition of Disabled
  - Mental and/or Physical impairment which substantially limits one or more major life activities
    - seeing, hearing, walking, performing manual tasks
- “Service Animal” (ADA-public accommodations)
  - Trained to perform a task
  - Only dog or miniature pony
- Assistance Animal (FHA & 504 Rehabilitation Act)

### California Fair Employment & Housing Act (FEHA)

- Definition of Disabled
  - Mental or physical impairment that limits performance of a major life activity
    - Housing provider can ask for proof assistance animal is medically necessary if disability is not visible
- “Assistance animal”
  - Perform many disability related functions, including emotional support
  - Includes all types of animals
    - Rooster, cat, fish

# Necessary + Reasonable + Nexus

- Reasonable accommodations must be both necessary and reasonable.
- Necessary = Connection between the disability, the requested change, and the ability to enjoy or use the housing.
- **Reasonable** = Must **not** create
  - Undue financial or administrative burden
    - Considering: Cost, benefit to tenant, financial resources of provider, availability of equally effective, less expensive alternative.
    - Some cost or financial burden on provider is to be expected.
  - Fundamental alteration
    - Must not alter the essential of the provider's operations.

# Case-by-Case Analysis

- Whether a requested accommodation is necessary and reasonable is determined on a case-by-case basis.
- An individualized assessment is required.
- Provider cannot deny a request because it may open the door to other requests.
- Each request is considered separately, without regard to prior or future requests.

# What's Next?

- Tenant should get a letter from their doctor stating how their pet is assisting the tenant's disability and/or symptoms of their disability
- Request a "reasonable accommodation" in writing to landlord
- If request is ignored, tenant should seek legal assistance
  - If under rent control, file complaint w/ City housing dep't
  - Can also file complaint with state Dept. of Fair Employment & Housing
    - Takes up to 60 days to open case

# Making Accommodation Requests

- What must you say?
  - Say client has a disability
  - Describe the accommodation client wants.
  - Explain how the accommodation would assist client.
- Timing: Requests can be made at ANY time
  - If the disability is not obvious or is not known to the housing provider, can request:
    - Verification that the tenant meets the Act's definition of disability
    - Information describes needed accommodation
    - Information that shows the relationship between the disability and the need for the requested accommodation.



# “Interactive Process”

- If the housing provider thinks the accommodation/modification requested is unreasonable, they must have a dialogue with the person with a disability about alternative accommodations/modifications.

# Alternative to Eviction

- The reasonable accommodation mandate applies to the termination of a lease, and may provide an alternative to eviction.
  - Tenant must establish link between the tenant's noncompliance with the lease and the tenant's disability.
  - Tenant must show that an accommodation will allow the tenant to obtain compliance and remain compliant with the lease (i.e., the accommodation is necessary)
  - Accommodation must be reasonable (i.e., not undue financial or administrative burden or fundamental alteration)
- Timing: Reasonable accommodation request may be made at **ANY** time.
- Accommodation denied → Affirmative Defense

# Using Reasonable Accommodations to Avoid “Direct Threat” Evictions

Fair Housing Act does not protect a tenant  
“*whose tenancy would constitute a direct threat to the health and safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.*” 42 USC 3604(f)(9).

# “Direct Threat”

- Analysis is objective, not subjective.
- Consider:
  - Nature of risk
  - Duration of risk
  - Severity of risk of injury
  - Probability injury will occur.
- Before evicting housing provider must determine whether there is an accommodation that could eliminate or mitigate the direct threat.

# Legal Requirements of an Owner for Emotional Support Animals

- CANNOT charge a pet deposit
- CANNOT charge an extra “pet fee”
- No Breed Restrictions
- “No Pet Policy” is not legal with regard to emotional support animals

# Agencies

- **Department of Fair Employment & Housing (DFEH)**
  - To file a complaint: (888) 519-5917
- **Los Angeles Housing & Community Investment Department (LAHCID)**
  - Toll Free Line: (866) 557-7368
- **Department of Consumer & Business Affairs (DCBA)**
  - Toll Free Line: (833) 223-7368
- **LA County Department of Public Health (DPH)**
  - Toll Free Line: (888) 700-9995
- **LA Department of Building & Safety (DBS)**
  - Phone #: (213) 473-3231 or 311
- **LA County Public Works**
  - Phone #: (626) 458-5100



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