

### 1. What is an Unlawful Detainer lawsuit?

An unlawful detainer lawsuit is a suit brought by a landlord to obtain possession of rented property and receive payment of back rent. In order to legally evict a tenant, the landlord must file an unlawful detainer lawsuit. The filing fee is **\$240** if the demand amount does not exceed \$10,000. If the demand is between \$10,000 and \$25,000 the filing fee is **\$385**. If the demand is over \$25,000 the filing fee is **\$395**.

### 2. Are Unlawful Detainer actions public record?

Access to the court file, index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an ex parte order upon a showing of good cause. Access is allowed to a party or an attorney in the action. See CCP 1161.2 for other exceptions.

If a defendant prevails in the action within 60 days after the complaint is filed, the court clerk may not allow access at any time to any of the documents specified in the above paragraph.

### 3. How do I respond to an Unlawful Detainer lawsuit?

If you are served with an unlawful detainer complaint, the complaint will show the court location where you should file your response. You have five days to respond in writing to the landlord's complaint. Your response must be served by someone over the age of 18 and not a party to the action. After you have filed your written answer to the landlord's complaint in the clerk's office and a memorandum to set trial is filed by the plaintiff, you will both be notified by mail of the time and place of trial. When you file your written response, the filing fee is **\$225** if the demand amount is less than \$10,000. If the demand is between \$10,000 and \$25,000 the filing fee is **\$370**. If the demand is over \$25,000 the filing fee is **\$395**. If the demand is over \$10,000 contact the court clerk for the filing fee amount. However, it is possible to obtain a waiver of the fee if you cannot afford to pay. A fee waiver form **Application for Waiver of Court Fees and Costs**, can be obtained from the clerk's office.

### 4. What is a Writ of Possession/Notice to Vacate?

If the case goes to trial and the landlord wins the unlawful detainer lawsuit, the court will issue a judgment of possession. To enforce the judgment, the landlord will then obtain a Writ of Possession that directs the Sheriff to enforce the judgment for possession of the property. This legal document authorizes the Sheriff to physically remove and lock the tenant out of the property. The Sheriff's costs from the eviction will then be added to the judgment, which the landlord can collect from you. The Sheriff will serve you with a Notice to Vacate the property before enforcing the Writ of Possession. After you receive the notice, you have five days to move. If you fail to move within five days, the Sheriff will turn over possession of the property to the landlord.

### 5. What happens if I fail to respond to the Unlawful Detainer lawsuit?

The Court may enter a default judgment in favor of the landlord and issue a **Writ of Possession** if you fail to respond after the fifth day. This default judgment allows the landlord to obtain possession of the property through a **Notice to Vacate** (see question #3).

### 6. Do I have the right to a jury trial?

Both parties have the right to a jury trial. To request a jury trial, the requesting party must file a document entitled a **Memorandum to Set for Trial** at least **5 days prior to the scheduled trial date**. All appearing parties will be mailed a **Notice of Trial** informing them of the trial date. The party requesting a jury trial will be responsible for the initial **\$150** cost for jury fees.

### 7. What if I have to change my trial date?

To change your trial date you need to either file a **Motion for Continuance along with a \$40 fee** or a written stipulation (agreement by both parties) as soon as the need for a continuance is known. The judicial officer may grant a continuance without the motion or stipulation.

### 8. What should I do to prepare for my court trial?

If you are not represented by an attorney, you can represent yourself. If you are representing yourself in a Superior Court action you can contact a legal aid society for advice. The telephone numbers are listed below:

Lompoc	(805) 736-6582
Santa Barbara	(805) 963-6754
Santa Maria	(805) 922-9909
Solvang	(805) 736-6582

- Bring any letters, documents, photographs, inspection reports, or any other exhibits with you to trial.
- Have at least two copies of all documents, an original for the court and a copy for the opposing party.
- Witnesses that are necessary for your defense should be subpoenaed for appearance in court. Subpoenas must be served and filed with the court on or before your trial date. You cannot serve the subpoena, and the person(s) served must be given reasonable notice of the date and time of the trial. The cost to request each witness is \$35, plus \$.20 per mile for mileage to and from the trial location.

### 9. Will the Court provide interpreters for Unlawful detainer cases?

The Court DOES NOT provide foreign language interpreters for unlawful detainer cases. If you do not speak and understand English, you should bring a friend or relative, or hire an interpreter. Individuals soliciting business in the hallways are not authorized to do so and are not employees of the court.

Note: The Court does provide interpreters for the hearing impaired (sign-language interpreters only).

**10. What will happen if I lose the case? May I appeal the judgment?**

If the landlord obtains judgment against you, you will have to move. The judgment may include the landlord's court costs and attorney fees plus any proven damages. You may appeal the judgment; however, an appeal does not automatically stay proceedings upon the judgment. To stay the execution of the judgment during the appeal process you must file a **Petition for Stay of Execution Pending Appeal**.

**Petition for Stay of Enforcement** – A petition for stay must first be directed to the judicial officer who hears your case. Petitions are not granted unless it can be shown that you will suffer **extreme hardship** in the absence of a stay, and that the stay will not cause a hardship to the landlord. If the judicial officer grants the petition, you will have to pay the "reasonable monthly rental value" to the court in advance as rent becomes due. The Court also has the discretion to impose other conditions on the granting of the stay. The Court also has the discretion to restore a tenant to his/her former tenancy in cases of **extreme hardship**. You may petition the Court to be restored to your tenancy by filing an **Application and Petition for Relief from Forfeiture**.

**Relief from Forfeiture of Lease** – Hardship is the only basis on which the court may relieve a tenant from forfeiture of a lease. If the petition is granted, you will be required to make full payment of all rent due and to fully perform any other conditions of the lease, if applicable. The Court may also require you to pay the landlord's attorney fees and costs.

**11. What if I do not appear for the trial?**

If you fail to appear for the trial, the Court may enter judgment in favor of the landlord. The landlord will obtain a **Writ of Possession** that will legally authorize the Sheriff to evict you from the property.

**The Court Mission:**

**The primary reason  
for the Santa Barbara Trial  
Court to exist is to:**

**“Resolve disputes fairly, promptly,  
economically and peacefully according  
to law, in order to maintain public  
order, protect individual rights and  
liberties and reconcile relationships.”**

**Superior Court of California  
County of Santa Barbara**

115 Civic Center Plaza, LOMPOC, CA 93436  
(805) 737-5452

1100 Anacapa St., SANTA BARBARA, CA 93101  
(805) 882-4520

312-C East Cook St., SANTA MARIA, CA 93454  
(805) 614-6414

1745 Mission Dr., Ste C, SOLVANG, CA 93463  
(805) 686-7482

**Local Court forms:**

[http://www.sbcourts.org/general\\_info/formslist.htm](http://www.sbcourts.org/general_info/formslist.htm)

**Judicial Council "fill-in and print" forms:**

<http://www.sbcourts.org/jcf/>

<http://www.accesslaw.com/>

**Other helpful Websites: (Partial List)**

[www.courtinfo.ca.gov/selfhelp/other/  
landlordtenantindex.htm](http://www.courtinfo.ca.gov/selfhelp/other/landlordtenantindex.htm)

[www.sucorte.ca.gov](http://www.sucorte.ca.gov) (Spanish website)

[www.dca.ca.gov/r\\_r/lanldtoc.htm](http://www.dca.ca.gov/r_r/lanldtoc.htm)

Unlawful Detainer

**What I  
Should  
Know  
About  
Unlawful  
Detainers**

