



STANISLAUS COUNTY SUPERIOR COURT
Turlock Division
www.stanct.org
(209) 530-3100

Revised 1/2016

Answer – Unlawful Detainer

This packet includes the necessary forms to respond to an eviction.

Judicial Council forms, local forms and information are available in the Clerk's Office, the Stanislaus County Law Library located at 1101 13th Street, Modesto, and on the following Websites:

- Stanislaus County Superior Court
- <http://www.stanct.org/courts/index.html>
Local forms
- <http://www.stanct.org/courts/forms/index.html>
Judicial Council's Self-Help website
- <http://www.courts.ca.gov/selfhelp>
For more information on Libraries, Websites, or Self-Help Legal Books
- <http://www.courts.ca.gov/selfhelp/lowcost/libraries.html>
California Superior Court's Interactive Electronic Forms Program

Superior Court Self-Help Center, 800 11th Street, Room 220, Modesto
PROVIDING ASSISTANCE TO PARTIES REPRESENTING THEMSELVES

Provides services on a first come, first serve basis.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, title, telephone, and address)		FOR COURT USE ONLY	
1			
TELEPHONE NO.:	FAX NO.:		
STREET ADDRESS:			
CITY AND ZIP CODE:			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Stanislaus		2	
STREET ADDRESS: 300 Starr Avenue			
MAILING ADDRESS: 300 Starr Avenue			
CITY AND ZIP CODE: Turlock, CA 95380			
SEARCH NAME:			
Plaintiff:			
Defendant: 3			
ANSWER - UNLAWFUL DETAINER		CASE NUMBER 4	

1. Defendant (each defendant for whom this answer is filed must be named and must sign this answer unless his or her attorney signs): **5**

Answer the complaint as follows:

2. Check **ONLY ONE** of the next two boxes:

- 6**
- 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, filed as Attachment 2B(1).

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(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, filed as Attachment 2B(2).

3. AFFIRMATIVE DEFENSES (NOTE: For each box checked, you must state brief facts to support it in Item 9k (top of page 2).)

- 8**
- 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 wrongfully changed, or contrived the notice to quit.
- e. Plaintiff served defendant with the notice to quit or bring the complaint to retaliation against defendant.
- f. By serving defendant with the notice to quit or bring the complaint, plaintiff is unlawfully 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), (the ordinance, and date of passage).
9. *(If yes, briefly state in Item 9k 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 win 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 9k.

Page 1 of 2
 Form Approved Under the
 Superior Court of California
 10-101 (Rev. January 2, 2014)
 eScriber
 eScriber
 ANSWEER - UNLAWFUL DETAINER
 Unlawful Detainer
 Case Code: J (rental) or
 Code of Civil Procedure, § 425.1 (1)(B) or
 other applicable law

ANSWER – UNLAWFUL DETAINER (UD-105)

Directions

- Find the number on the sample form.
Example: 1
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink.
DO NOT USE GEL PENS.

- Write your name, address and phone number.
- If not filled in for you, write "Stanislaus" after COUNTY OF. The address is as follows:

Street: 300 Starr Avenue
 Mailing: 300 Starr Avenue
 City & Zip: Turlock, CA 95380
- Write the name of the Plaintiff and Defendant. You will find this information on the complaint.
- Write in the case number. You will also find this on the complaint.
- Write in your first and last name and the first and last name of any other defendants who will be signing/filing this Answer with you. (Example: John Doe and Jane Doe NOT John and Jane Doe)
- If the Complaint expressly asks for **more** than \$1,000 in past due rent, check Box 2(b) and proceed to Item No. 7. If it does not, then check Box 2(a) and proceed to Item No. 8.
- If you checked Box 2(b) because the past due rent is over \$1,000 then you need to carefully read the complaint, paragraph by paragraph and do the following for each:
 - If you agree with **everything** in the paragraph, go on to the next one.
 - If you **disagree with any** statement in the paragraph, enter the paragraph number in the space on the Answer after **2(b)(1)**. You may disagree with more than one paragraph. If so, enter the numbers of all the paragraphs.
 - If you **don't have enough information to agree or disagree** with a statement in a paragraph, enter the paragraph number in the space on the Answer after **2(b)(2)**.
- An affirmative defense is a set of facts that establish a legal excuse or justification to the claims within the complaint. Check all boxes in items 3(a) - 3(j) that applies in your case. Refer to next page for a detailed explanation of each defense.

Affirmative Defenses – Unlawful Detainer (Cont'd)

DEFENSE	DESCRIPTION OR EXAMPLES OF WHEN IT MAY APPLY
<p>3(a) Plaintiff has breached the warranty to provide habitable premises.</p> <p>(Defense applies ONLY if the landlord says you owe rent)</p>	<p>HABITABLE PREMISES: Check Box 3(a) if your landlord has failed to keep your home or apartment in good repair. This applies to you if the property has any of the following defective conditions:</p> <ul style="list-style-type: none"> • No working plumbing, sewage, or septic system • No hot or cold running water • No safe or working heat • Unsafe gas or electricity • Unsafe or secure floors, stairways or railings • Dirty or unsafe common areas (areas shared with others such as sidewalks and laundry rooms) • Infestation of rodents, roaches, fleas, bugs or other vermin • Broken doors or windows • Leaks in roof or walls • Or other serious problems which affected the livability of your home
<p>3(b) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.</p> <p>(Defense applies ONLY if the landlord says you owe rent)</p>	<p>SELF REPAIRS: Check Box 3(b) if you made needed repairs to your house or apartment; If the landlord does not maintain the property, and you need to make repairs yourself, you must first give your landlord notice of the things to be fixed, and your intent to fix them. You can subtract the costs from your next month's rent if the landlord does not make the repairs in a reasonable time. You must allow your landlord a "reasonable" time to make the repairs before you do them yourself and deduct the cost. A "reasonable" time is usually considered 30 to 60 days, unless the problem creates an emergency situation in which <u>health</u> or <u>safety</u> are put at risk if not repaired immediately. This defense only works for repairs that cost less to fix than one month's rent, and cannot be used more than twice in any 12-month period.</p>
<p>3(c) On <u>(date)</u>, BEFORE the notice to pay or quit expired, defendant offered the rent due but plaintiff did not accept it.</p> <p>(Defense applies ONLY if the landlord says you owe rent)</p>	<p>TRIED TO PAY IN FULL: Check Box 3(c), if your landlord gave you a 3-Day Notice to Pay or Quit <u>and</u> you tried to pay your landlord the FULL amount of rent due before the end of the three days but the landlord refused to accept it, you can check box "c" and state the date when you tried to pay the rent. You should have the rent money with you at the trial. If you offered to pay only PART of the rent due, DO NOT check this box.</p>

Affirmative Defenses – Unlawful Detainer (Cont'd)

DEFENSE	DESCRIPTION OR EXAMPLES OF WHEN IT MAY APPLY
3(d) Plaintiff waived, changed, or canceled the notice to quit.	NOTICE TO QUIT CHANGED OR CANCELLED: Check Box 3(d) if your landlord tells you to ignore the notice to quit, or accepts rent from you after giving you the 3-day, 30-day or 60-day notice; OR if the landlord CHANGED the eviction notice.
3(e) Plaintiff served defendant with the notice to quit or filed the complaint to RETALIATE against the defendant.	RETALIATION: Check Box 3(e) if you believe the landlord is evicting you to get even because you exercised your legal rights, this defense may apply. An example might be a landlord evicting a tenant for reporting the landlord to the Dept. of Housing or Code Enforcement.
3(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 of laws of the United States or California.	DISCRIMINATION: Check Box 3(f) if you believe the landlord is evicting you because of your RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, NUMBER OF CHILDREN, OCCUPATION, PHYSICAL OR MENTAL DISABILITY, OR BECAUSE THE TENANT IS RECEIVING PUBLIC ASSISTANCE.
3(g) Plaintiff's demand for possession violates the local rent control or eviction control ordinance.	RENT CONTROL: Check Box 3(g) only if the property you are renting is governed by a rent control ordinance, or it is a mobile home park subject to rent control, or it is a federally subsidized housing project, or it is Section 8 housing, AND the landlord's efforts to evict you are in violation of rent control laws governing this type of property.
3(h) Plaintiff accepted rent from defendant to cover a period of time AFTER the date the notice to quit expired.	ACCEPTANCE OR RENT: Check Box 3(h) if your landlord accepted rent from you covering a period of time after the end of the 30-Day or 90-Day period on the notice you were given.
3(i) Plaintiff seeks to evict defendant based on acts against defendant or a member of defendant's household that constitute domestic violence, sexual assault, or stalking.	DOMESTIC VIOLENCE: Check Box 3(i) if you believe your landlord is evicting you because someone had a domestically violent altercation with you or a member of your household, you have obtained a restraining order, protective order or made a police report within the last 180 days AND the domestically violent person is not a tenant in you or the abused household member's home.
3(j) Other affirmative defenses are stated in Item 3(j).	OTHER AFFIRMATIVE DEFENSES: Check Box 3(j) if you feel you have ANOTHER legal defense which has not been listed. You may have other special defenses. You have 10 days after filing your answer to amend or modify it.

ANSWER – UNLAWFUL DETAINER (UD-105)

Page Two

Directions

- Find the number on the sample form.
Example: 9
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink.
DO NOT USE GEL PENS.

UD-105
CASE NUMBER 9
<p>3. AFFIRMATIVE DEFENSES (cont'd)</p> <p>k. Facts supporting affirmative defenses checked above (Identify facts for each item by its number from page 1 below or on form MC-025):</p> <p><input type="checkbox"/> Description of facts is on MC-025, filed as Attachment 3k.</p> <p style="text-align: center;">10</p> <p>4. OTHER STATEMENTS</p> <p>a. <input type="checkbox"/> Defendant vacated the premises on (date): 11</p> <p>b. <input type="checkbox"/> The fair rental value of the premises alleged in the complaint is excessive (explain below or on form MC-025):</p> <p><input type="checkbox"/> Explanation is on MC-025, filed as Attachment 4b.</p> <p style="text-align: center;">12</p> <p>c. <input type="checkbox"/> Other (specify below or on form MC-025 in attachment):</p> <p><input type="checkbox"/> Other statements are on MC-025, filed as Attachment 4c.</p> <p style="text-align: center;">13</p> <p>5. DEFENDANT REQUESTS</p> <p>a. that plaintiff take nothing requested in the complaint. 14</p> <p>b. costs incurred in this proceeding.</p> <p>c. <input type="checkbox"/> reasonable attorney fees.</p> <p>d. <input type="checkbox"/> 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.</p> <p>e. <input type="checkbox"/> Other (specify below or on form MC-025):</p> <p><input type="checkbox"/> All other requests are stated on MC-025, filed as Attachment 5e.</p> <p style="text-align: center;">15</p> <p>6. <input type="checkbox"/> Number of pages attached:</p> <p style="text-align: center;">16</p> <p>UNLAWFUL DETAINER ASSISTANT (Bia. & Prof. Code §§ 6400-6415)</p> <p>7. (Must be completed in all cases.) An unlawful detainer assistant <input type="checkbox"/> did not <input type="checkbox"/> 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):</p> <p>a. Assistant's name: 16 b. Telephone No.:</p> <p>c. Street address, city, and zip code:</p> <p>d. County of registration: e. Registration No.: f. Expires on (date):</p> <p>(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.)</p> <p>_____ (TYPE OR PRINT NAME) 17 _____ (SIGNATURE OF DEFENDANT OR ATTORNEY)</p> <p>_____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF DEFENDANT OR ATTORNEY)</p> <p style="text-align: center;">VERIFICATION</p> <p>(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)</p> <p>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:</p> <p>_____ (TYPE OR PRINT NAME) 18 _____ (SIGNATURE OF DEFENDANT)</p> <p style="font-size: small;">UD-105 (Rev. January 4, 2014) ANSWER – UNLAWFUL DETAINER Page 2 of 2</p> <p style="text-align: center;">Unlawful Detainer</p>

- 9) Write in the case number.
- 10) For each Affirmative Defense you check in Items 3(a)-3(j) you must write the facts that support your defense. (For example, if you check Item 3(a) Habitability Defense: "On March 1, 20XX, I notified the landlord there was no hot or cold running water and nothing was done to fix it." Or if you checked Item 3(e) Retaliatory Eviction: "I notified the landlord three times that the toilet needed to be fixed and after nothing was done to fix, I complained to the city health department. Ten days later, I received a 30-Day Notice to Quit.") If need more space for the detailed facts, check the box and continue on form MC-025.
- 11) If you have already vacated the premises check box 4(a) and write in the date you left.
- 12) If the complaint requests a daily rental value and you disagree with the amount, then check box 4(b) and write in the facts supporting a reduced amount. (For example, "This amount is excessive since the premises had no running hot or cold water.")
- 13) If there are any other details you want the court to consider in support of your defenses, check box 4(c) and write in the details.
- 14) Check boxes 5(c), 5(d) and/or 5(e) as it applies to your case and fill in any details necessary.
- 15) If additional pages are attached, write in the number of pages.
- 16) Check "did not" in Item 7 indicating you did not pay for assistance with this form.
- 17) Date, print and sign your name here.
- 18) Read the verification and date, print and sign your name.

NOTE: a copy of this document must be served by mail on the other party or their attorney, if they have one. Proceed to the next page for further instruction on how to have this done.

Affirmative Defenses – Unlawful Detainer (Cont'd)

DEFENSE	DESCRIPTION OR EXAMPLES OF WHEN IT MAY APPLY
3(d) Plaintiff waived, changed, or canceled the notice to quit.	NOTICE TO QUIT CHANGED OR CANCELLED: Check Box 3(d) if your landlord tells you to ignore the notice to quit, or accepts rent from you after giving you the 3-day, 30-day or 60-day notice; OR if the landlord CHANGED the eviction notice.
3(e) Plaintiff served defendant with the notice to quit or filed the complaint to RETALIATE against the defendant.	RETALIATION: Check Box 3(e) if you believe the landlord is evicting you to get even because you exercised your legal rights, this defense may apply. An example might be a landlord evicting a tenant for reporting the landlord to the Dept. of Housing or Code Enforcement.
3(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 of laws of the United States or California.	DISCRIMINATION: Check Box 3(f) if you believe the landlord is evicting you because of your RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, NUMBER OF CHILDREN, OCCUPATION, PHYSICAL OR MENTAL DISABILITY, OR BECAUSE THE TENANT IS RECEIVING PUBLIC ASSISTANCE.
3(g) Plaintiff's demand for possession violates the local rent control or eviction control ordinance.	RENT CONTROL: Check Box 3(g) only if the property you are renting is governed by a rent control ordinance, or it is a mobile home park subject to rent control, or it is a federally subsidized housing project, or it is Section 8 housing, AND the landlord's efforts to evict you are in violation of rent control laws governing this type of property.
3(h) Plaintiff accepted rent from defendant to cover a period of time AFTER the date the notice to quit expired.	ACCEPTANCE OR RENT: Check Box 3(h) if your landlord accepted rent from you covering a period of time after the end of the 30-Day or 90-Day period on the notice you were given.
3(i) Plaintiff seeks to evict defendant based on acts against defendant or a member of defendant's household that constitute domestic violence, sexual assault, or stalking.	DOMESTIC VIOLENCE: Check Box 3(i) if you believe your landlord is evicting you because someone had a domestically violent altercation with you or a member of your household, you have obtained a restraining order, protective order or made a police report within the last 180 days AND the domestically violent person is not a tenant in you or the abused household member's home.
3(j) Other affirmative defenses are stated in Item 3(j).	OTHER AFFIRMATIVE DEFENSES: Check Box 3(j) if you feel you have ANOTHER legal defense which has not been listed. You may have other special defenses. You have 10 days after filing your answer to amend or modify it.

PROOF OF SERVICE BY MAIL (POS-030)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Title, Office, and full city and state) POS-030</p> <p>1</p> <p>TELEPHONE NO. _____ FAX NO. (optional) _____</p> <p>CALL OR WRITE (optional)</p> <p>ATTORNEY FOR (Name) _____</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Stanislaus</p> <p>STREET ADDRESS: 300 Starr Avenue 2</p> <p>CITY AND ZIP CODE: Turlock, CA 95380</p> <p>BUSINESS NAME _____</p> <p>PETITIONER/PLAINTIFF: _____</p> <p>RESPONDENT/DEFENDANT: 3</p> <p>PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL CASE NUMBER 4</p>	
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(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: **5**
3. On (date): **6** I mailed from (city and state): _____
the following document(s) (specify): **7**

The document(s) are listed in the Attachment to Proof of Service by First-Class Mail - Civil (Documents Served) (form POS-030(D)).

4. I served the document(s) 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 available with this business's practices 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.
- 8 The envelope was addressed and mailed as follows:
 - a. Name of person served: _____
 - b. Address of person served: _____ **9**

The name and address of each person to whom I mailed the document(s) is listed in the Attachment to Proof of Service by First-Class Mail - Civil (Persons Served) (POS-030(F)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ **10**

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM) (SIGNATURE OF PERSON COMPLETING THIS FORM)

Form Adopted by Chapter 116A
 Public Code of California Regulations
 (POS-030 Form January 1, 2006) **PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL** Code of Civil Procedure, §§ 1292, 1293
 (Proof of Service) Unlawful Detainer

Directions

- Find the number on the sample form.
Example: 1
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink.
DO NOT USE GEL PENS.

- 1) Write your name, address and phone number.
- 2) If not filled in for you, write "Stanislaus" after COUNTY OF. The address is as follows:

Street: 300 Starr Avenue
Mailing: 300 Starr Avenue
City & Zip: Turlock, CA 95354
- 3) Write the name of the Plaintiff and Defendant.
- 4) Write in the case number. You will also find this on the complaint.
- 5) Someone over the age of 18 must "serve" or mail a copy of your answer to the Plaintiff or Plaintiff's Attorney (if they have one) and date and sign the Proof of Service. **This CANNOT BE YOU and CANNOT be someone living in the home with you.** Write the address of the person mailing the Answer.
- 6) Write in the date the Answer is being mailed and the City and State it is being mailed from.
- 7) Write in the name of the document to be mailed. (Example: "ANSWER – UNLAWFUL DETAINER" or "PREJUDGMENT CLAIM OF RIGHT TO POSSESSION")
- 8) Check the box that best describes how the document was mailed.
- 9) Write in the name of the plaintiff or plaintiff's attorney (if they have one) and write in the address that the document was mailed to.
- 10) Have the person who is mailing the document date print and sign. One complete copy of the Answer & Proof of Service is then mailed. The originals and one copy are then filed with the clerk's office at the address noted above.

CP 10.5	
1 NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT. 1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint. 2. If you file this form, your claim will be dismissed in the eviction action against the persons named in the Complaint. 3. If you do not file this form, you will be evicted without further hearing.	
2 CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address): TELEPHONE NO.: FOR COURT USE ONLY	
ATTORNEY FOR (Name): 3 NAME OF COURT: Stanislaus County Superior Court COURT ADDRESS: 300 Starr Avenue CITY AND ZIP CODE: Turlock, CA 95380	
PLAINTIFF: 4 DEFENDANT:	
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION	CASE NUMBER: 5
Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed. 3. You still occupy the premises.	(To be completed by the process server) DATE OF SERVICE: (Date that this form is served or delivered, and posted, and mailed by the officer or process server)
I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY: 1. My name is (print): 6 2. I reside at (street address, apt No., city and ZIP code): 7 3. The address of "the premises" subject to this claim is (address): 8 4. On (insert date), the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.) 5. I occupied the premises on the date the complaint was filed (the date in Item 4). I have continued to occupy the premises ever since. 6. I was at least 18 years of age on the date the complaint was filed (the date in Item 4). 7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in Item 4). 8. I was not named in the Summons and Complaint. 9. I understand that if I make this claim of right to possession, I will be added as a defendant in the unlawful detainer (eviction) action. 10. (Filing fee) I understand that I must go to the court and pay a filing fee of \$ 9 or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.	
(Continued on reverse) PREJUDGMENT CLAIM OF RIGHT TO POSSESSION Unlawful Detainer	
<small>CP 10.5 (Rev. January 1, 1993) Date of Court Proceedings: (11:00 AM, 1:00 PM, 2:00 PM, 3:00 PM, 4:00 PM)</small>	

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

Directions

- Decide if filing this document is the right thing for you to do.
- Find the number on the sample form.
Example: 1
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue or black ink**.
DO NOT USE GEL PENS.

What is a Prejudgment Claim of Right to Possession?

A Prejudgment Claim of Right to Possession is a form that you can file if:

- There is an unlawful detainer (eviction) filed in court by the owner of the property where you live, seeking to remove the tenants, AND
- You are not named as a defendant in the eviction case; AND
- You claim a legal right to remain on the property.

What are the consequences of filing the claim?

By filing this document you make yourself a defendant in the eviction case and you could subject yourself to a judgment against you if you lose.

What happens if I do not file the claim?

You will be bound by what the court decides in the eviction case against the tenant(s) named in the complaint. If the court orders the named tenant(s) to move out, then you will have to move out too.

- 1) Read the Notice Section Carefully
- 2) Write your name, address and phone number.
- 3) If not filled in for you, write "Stanislaus" after COUNTY OF. The address is as follows:
 - Street: 300 Starr Avenue
 - Mailing: 300 Starr Avenue
 - City & Zip: Turlock, CA 95380
- 4) Write the name of the Plaintiff and Defendant. You will find this on the complaint.
- 5) Write in the case number. You will also find this on the complaint.
- 6) Write in your name.
- 7) Write in the address of the premise at both Item Nos. 2 & 3
- 8) Write in the date the Complaint was filed.
- 9) Unless you qualify for a fee waiver the following fees will be due at the time of filing:
 - \$225 if the complaint is asking for monetary relief up to \$10,000
 - \$370 if the complaint is asking for monetary relief over \$10,000 and up to \$25,000
 - \$435 if the complaint is asking for monetary relief over \$25,000

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

Page Two

PLAINTIFF (Name): DEFENDANT (Name):	CARD NUMBER: 11
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NOTICE: If you fail to file this claim, you will be evicted without further hearing.

11. (Read these instructions within five days after you file this form.) I understand that I will have five days (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form. **12**

12. Rental agreement. I have (check all that apply to you):

a. an oral rental agreement with the landlord.

b. a written rental agreement with the landlord. **13**

c. an oral rental agreement with a person other than the landlord.

d. a written rental agreement with a person other than the landlord.

e. other (explain):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date: **14**

(TYPE OR PRINT NAME) _____ (SIGNATURE OF CLAIMANT) _____

NOTICE: If you file this claim of right to possession, the unlawful detainer (eviction) action against you will be dismissed at trial. At trial, you may be found liable for rent, costs, and, in some cases, triple damages.

- NOTICE TO OCCUPANTS - 15

YOU MUST ACT AT ONCE if all the following are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is the court filing date on the accompanying Summons and Complaint.)
3. You still occupy the premises.

(Where to file this form) You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the reverse of this form) at the court where the unlawful detainer (eviction) complaint was filed.

(What will happen if you do not file this form): If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), YOU WILL BE EVICTED.

Also, this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. If you do not file this claim, you will be evicted without a hearing.

DP163 (Rev. January 1, 2014) PREJUDGMENT CLAIM OF RIGHT TO POSSESSION Page Two
 Unlawful Detainer

Directions

- Find the number on the sample form.
Example: 10
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in blue or black ink.
DO NOT USE GEL PENS.

- 10) Write in the Plaintiff and the Defendants names
- 11) Write in the Case Number.
- 12) Read Item No. 11 carefully. You will be required to file an ANSWER – UNLAWFUL DETAINER within ten (10) days of filing this form.
- 13) At Item 12, check only those boxes that apply to your situation.
- 14) Write in the date, print your name and sign.
- 15) Read the Notice to Occupants carefully.

NOTE: a copy of this document must be served by mail on the other party or their attorney, if they have one. Refer to Page Proof of Service page of this instruction packet for further instruction on how to have this done.

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 Stanislaus STREET ADDRESS: 300 Starr Avenue MAILING ADDRESS: 300 Starr Avenue CITY AND ZIP CODE: Turlock, CA 95380 BRANCH NAME: _____	
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 (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY CASE NUMBER: _____
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Stanislaus STREET ADDRESS: 300 Starr Avenue MAILING ADDRESS: 300 Starr Avenue CITY AND ZIP CODE: Turlock, CA 95380 BRANCH NAME: _____	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL	

(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)

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.

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

1. If you live here and you do not complete and submit this form, you may be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. You must file this form within 10 days of the date of service listed in the box on the right hand side of this form.
 - **Exception:** If you are a tenant being evicted after your landlord lost the property to foreclosure, the 10-day deadline does not apply to you and you may file this form at any time before judgment is entered.
3. If you file this form, your claim will be determined in the eviction action against the persons named in the complaint.
4. If you do not file this form, you may be evicted without further hearing.
5. If you are a tenant being evicted due to foreclosure, you have additional rights and should seek legal advice immediately.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address): TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name):	CASE NUMBER:
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS STREET ADDRESS: 300 Starr Avenue MAILING ADDRESS: 300 Starr Avenue CITY AND ZIP CODE: Turlock, CA 95380 BRANCH NAME: Turlock Division	
Plaintiff: Defendant:	
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION	
Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the subject premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is in the accompanying Summons and Complaint.) 3. You still occupy the subject premises.	(To be completed by the process server) DATE OF SERVICE: (Date that form is served or delivered, posted, and mailed by the officer or process server)

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit no., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): _____, the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is in the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing fee of \$ _____ or file with the court an "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file the form for waiver of court fees, I will not be entitled to make a claim of right to possession.

(Continued on reverse)

Plaintiff: Defendant:	CASE NUMBER:
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11. If my landlord lost this property to foreclosure, I understand that I can file this form at any time before judgment is entered, and that I have additional rights and should seek legal advice.
12. I understand that I will have *five days* (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

NOTICE: If you fail to file this claim, you may be evicted without further hearing.

13. **Rental agreement.** I have (*check all that apply to you*):

- a. an oral or written rental agreement with the landlord.
- b. an oral or written rental agreement with a person other than the landlord.
- c. an oral or written rental agreement with the former owner who lost the property to foreclosure.
- d. other (*explain*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim to possession, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

— NOTICE TO OCCUPANTS —

YOU MUST ACT AT ONCE if all the following are true:

- 1. You are NOT named in the accompanying Summons and Complaint.**
- 2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed.**
- 3. You still occupy the premises.**

You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the form) at the court where the unlawful detainer (eviction) complaint was filed. If you are a tenant and your landlord lost the property you occupy through foreclosure, this 10-day deadline does not apply to you. You may file this form at any time before judgment is entered. You should seek legal advice immediately.

If you do not complete and submit this form (and pay a filing fee or file a fee waiver form if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. *If you do not file this claim, you may be evicted without a hearing.*